Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should provide from renewable resources not less than 25 percent of the total energy consumed in the United States and continue to produce safe, abundant, and affordable food, feed, and fiber.

S. RES. 224

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 224, a resolution to express the sense of the Senate supporting the establishment of September as Campus Fire Safety Month, and for other purposes.

S. RES. 407

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 407, a resolution recognizing the African American Spiritual as a national treasure.

S. RES. 494

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 494, a resolution expressing the sense of the Senate regarding the creation of refugee populations in the Middle East, North Africa, and the Persian Gulf region as a result of human rights violations.

S. RES. 513

At the request of Mr. GRAHAM, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 513, a resolution expressing the sense of the Senate that the President should designate the week beginning September 10, 2006, as ''National Historically Black Colleges and Universities Week''.

AMENDMENT NO. 4772

At the request of Mr. CARPER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 4772 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4825

At the request of Mr. BAYH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 4825 intended to be proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4826

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 4826 intended to be proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4827

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Mr. INOUYE, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Mr. JEFFORDS, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Mr. BAUCUS, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Mr. REED, his name was added as a cosponsor of amendment No. 4827 proposed to H.R. 5631, supra.

At the request of Mr. LEAHY, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Delaware (Mr. BIDEN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of amendment No. 4827 proposed to H.R. 5631, supra.

AMENDMENT NO. 4842

At the request of Mr. KYL, the name of the Senator from Oregon (Mr. WYDEN) was withdrawn as a cosponsor of amendment No. 4842 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

At the request of Mr. KYL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4842 proposed to H.R. 5631, supra.

AMENDMENT NO. 4843

At the request of Mr. KENNEDY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from Illinois (Mr. DURBIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Ms. STABENOW), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 4843 intended to be proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4844

At the request of Mr. SESSIONS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 4844 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

AMENDMENT NO. 4850

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 4850 intended to be proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED:

S. 3784. A bill to provide wage parity for certain prevailing rate employees in Rhode Island; to the Committee on Homeland Security and Governmental Affairs.

Mr. REED. Mr. President, today I am introducing the Rhode Island Federal Worker Fairness Act of 2006. This bill will merge the Narragansett Bay wage area with the Boston, MA, wage area to provide Rhode Island Federal blue-collar workers with pay equity in the region. These workers include janitors, mechanics, machine tool operators, munitions and explosive operators, electricians, and engineers.

Federal employees within the Narragansett Bay wage area are paid under one of the lowest Federal wage system, FWS, pay scales while residing in an area with one of the highest costs of living. Significant disparities between Narragansett Bay wages and those in proximate wage areas raise serious questions about the fairness and equity of the Federal wage pay scales. The average wage grade worker in Rhode Island earns $18.01 per hour compared to the same worker in Boston who earns $20.25 per hour or an employee in Hartford who earns $20.05 per hour. As a result, Rhode Island may be losing experienced Federal employees to the same jobs, at the same grade levels, just miles away because of better pay. Enacting this legislation would help the approximately 500 wage rate workers in Rhode Island better provide for their families, and it will ensure that Rhode Island keeps qualified and trained Federal workers.

Roughly 80 percent of all FWS employees in the United States work either in the Department of Defense or the Department of Veteran Affairs. Indeed, Naval Station Newport employs the most FWS workers in the Narragansett Bay area. These employees perform work that is important to our national security, and competitive compensation is the best way to ensure that these workers are qualified and effective. Merging these two wage areas would reduce the disparity between the salaries of these Federal workers and keep Federal workers in Rhode Island from abandoning their Government jobs for higher paying positions in Massachusetts and Connecticut.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rhode Island Federal Worker Fairness Act of 2006''.

SEC. 2. WAGE PARITY FOR CERTAIN PREVAILING RATE EMPLOYEES IN RHODE ISLAND.

The wage schedules and rates applicable to prevailing rate employees (as defined in section 5342 of title 5, United States Code) in the Narragansett Bay, Rhode Island, wage area shall be the same as the wage schedules and rates applicable to prevailing rate employees in the Boston, Massachusetts, wage area.

SEC. 3. EFFECTIVE DATE.

Section 2 shall take effect beginning with the first pay period beginning on or after the date of enactment of this Act.

By Ms. SNOWE:

S. 3785. A bill to amend the Small Business Investment Act of 1958 to improve surety bond guarantees, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the Surety Bond Improvement Act, a bill designed to reinvigorate the Small Business Administration's Surety Bond Guarantee Program. This bill's primary purpose is to ensure that small businesses are able to secure the surety bonds they need to compete for contracts, grow, and hire more employees.

Surety bonds are critical to small companies' survival and competitiveness. Without bonding, small firms cannot secure the contracts they need to grow. Unfortunately, many new, small businesses lack the stable credit histories and assets they need to secure surety bonding. Many sureties also refuse to bond small companies because of the greater risk that comes with insuring unproven firms. For many small businesses, difficulties obtaining surety bonds act as a barrier to entry and prevent them from competing in defense contracting, construction, services, and other markets.

Insuring against loss, surety bonds are most often used on large contracts where the sequential work of many subcontractors is necessary to finish a project on time. The principal contractor will require that each subcontractor obtain a surety bond. A subcontractor's surety bond will guarantee that they will meet their contract's time and quality requirements whether it be for framing a building or installing specific computer equipment. The majority of small and large businesses fulfill their contractual obligations, and claims against surety bonds are infrequent. If a claim occurs, the surety firm is responsible for any monetary damages that occur because the bonded company did not fulfill its contractual obligations.

Many new small contractors are only able to obtain surety bonds through the SBA's Surety Bond Guarantee Program. In order to reduce the risk to surety firms, the SBA promises to cover between 70 and 90 percent of any possible claims on bonds underwritten through the Surety Bond Guarantee Program. The Surety Bond Guarantee Program then helps small businesses establish a bonding history so that with time they can outgrow the program and obtain bonds in the competitive marketplace.

It is critical to understand that the number of participating sureties in the Surety Bond Guarantee Program directly affects the number of small companies that can receive surety bonds. Over the last several years, a number of SBA actions have greatly reduced the profitability of surety companies participating in this SBA program. Declining profitability has forced sureties to leave the program, causing a severe downturn in the total number of small businesses obtaining surety bonds.

In 2003, the Surety Bond Guarantee Program issued 8,974 bonds to small businesses. In 2004, the number declined to 7,803 bonds, and in 2005, the number declined again to 5,678 bonds. This year, even though the need for surety bonds has not decreased, as of March 2006, only 1,760 surety bonds have been issued. The sureties argue that SBA's outdated fee structure and other actions, such as unwinding bond guarantees and recent fee increases, make it impossible for them to earn a profit and continue participating in the program.

One of the greatest obstacles to profitability is the Preferred Surety Bond Program's outdated fee structure. Currently, sureties in the preferred program are forced to use insurance rates set on August 1, 1987, almost 20 years ago. Many sureties have left the program because the SBA's outdated rates prevent them from making a profit on the small business bonds they issue.

To address this problem, my bill would grant participating sureties greater rate setting flexibility by allowing them to charge rates that are approved by the insurance commissioner of the State in which the contract will be performed. It will also raise the current limit on the maximum amount of a contract that a company can bond through the program from $2 million to $3 million, an adjustment that inflation makes necessary.

My bill prohibits the SBA from unwinding a surety bond guarantee after the agency has already underwritten and approved the bond. Currently, the SBA will often find technical reasons, which should have been discovered during the underwriting process, to avoid paying on a claim against an SBA guaranteed bond. When this occurs, the surety companies must honor the SBA's financial obligations and cover any losses caused by the breach of contract. Most sureties can only afford to have the SBA unwind a bond once or twice before they are forced to leave the Surety Bond Program.

My bill also addresses recent SBA fee increases. In August of 2005, the SBA moved to increase surety bonding companies' premium fees by 60 percent and then directed that none of the fee increase could be passed along to small companies seeking surety bonds. I was concerned that this fee increase would provide an additional reason for surety companies to stop underwriting small companies and further decrease the ability of small firms to receive surety bonds.

The SBA's fee increase made it necessary for me to evaluate the underlying terms of the surety program. After working with the SBA, eventually the agency agreed to allow the surety companies to split the fee increase with small firms, a much more palatable solution than forcing the bonding companies—or the small businesses—to absorb all of the increase.

The bill requires the SBA to be transparent in its fee structure and any calculations the agency uses to justify future fee increases. The bill also clarifies that Congress does not require the Surety Bond Guarantee Program to be entirely self funding or self sufficient.

I am working with the SBA to reverse the decline in participating sureties and increase the number of small businesses receiving surety bonding. To achieve this goal, the Surety Bond Guarantee Program is working to reduce approval times by increasing companies' ability to submit underwriting applications and claim requests online. The program also plans to restructure its field offices and conduct outreach to new sureties and small businesses needing surety bonding. These changes, along with the necessary legislative changes I have proposed today, will help the program attract new sureties and increase the overall number of small companies able to secure sureties underwriting through the program.

Mr. President, I would like to encourage my colleagues to support the Surety Bond Improvement Act. This bill was written after consulting with small business owners and surety bonding companies on how best to revitalize this critical program. Without these changes, the number of sureties participating in the program will continue to decline—as will the ability of small businesses to secure surety bonds. Without these bonds many small businesses will be unable to compete for contracts and government work. For new companies, obtaining a surety bond will become a barrier to entry and competition they are unable to overcome.

By Ms. SNOWE:

S. 3786. A bill to reauthorize and improve the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the Small Business Information Security Act of 2006. This bill will establish within the Small Business Administration a Small Business Information Security Task Force to advise the SBA and help small businesses both understand the information security challenges they face and identify resources to help meet those challenges.

As chair of the Senate Committee on Small Business and Entrepreneurship, one of my goals is to ensure small businesses are protected from the mounting information security threats they face every day. This legislation will create a clearinghouse of information, resources, and tools—compiled by a task force consisting of public and private sector experts in the field—that will ease the trouble, confusion, and cost often associated with enhancing information security measures within a small business. The task force will continually update information and resources as new technologies and new threats arise. Currently, potential and existing owners of small businesses turn to the SBA for resources regarding a number of other aspects when developing and maintaining their ventures. But information security resources are not as readily available. This measure will present an opportunity for the SBA to create a repository for small businesses to meet their information security needs.

According to a 2005 survey by the Small Business Technology Institute, more than half of all small businesses in the United States experienced a security breach in the last year. Furthermore, the study concludes that nearly one-fifth of small businesses do not use virus-scanning for e-mail, over 60 percent do not protect their wireless networks with encryption, and two-thirds of small businesses do not have an information security plan.

As these statistics illustrate, small businesses are increasingly at risk of data breaches and other forms of malicious attacks on their information technology infrastructure. The Small Business Information Security Task Force will provide resources and information to small business owners to help them overcome these obstacles and decrease the risks posed to their small businesses by cybercriminals. I encourage all of my colleagues to support this vitally important legislation.

By Mr. SANTORUM (for himself, Mr. PRYOR and Mrs. DOLE):

S. 3787. A bill to establish a congressional Commission on the Abolition of Modern-Day Slavery; to the Committee on Foreign Relations.

Mr. SANTORUM. Mr. President, I am joined today by Senator PRYOR and Senator DOLE to address an important issue that is all too often hidden from public view—the practice of modern day slavery.

One of my political heroes is the 18th century British statesman, William Wilberforce. Wilberforce was one of the leaders of the moral crusade to rid the British empire of slavery. He devoted 20 years to abolishing the British slave trade and another 26 years to abolishing slavery altogether. He and his fellow abolitionists had a profound affect on the American abolitionist movement, and their dedication fueled some of our greatest leaders, including John Quincy Adams, Benjamin Franklin, James Monroe, and John Jay. His influence reached William Wells Brown, Paul Cuffe, Benjamin Hughes, Frederick Douglass, and Abraham Lincoln, and he helped pave the way for abolitionists like Thaddeus Stevens and Richard Allen.

These great men opened the eyes of the United Kingdom and the United States to see the injustice that marked our countries. Thankfully, their work helped end the U.S. and U.K. slave trade. Later, our country constitutionally abolished slavery and took a significant step to effectuate the vision of the Declaration of Independence, that all people are created equal.

We, as a country, often rush to divorce ourselves from our historic malfeasance. We want to forget the stories of human beings—women and children—suffocating on slave ships, tied to whipping posts and bound with bruising fetters. We want to forget the blatant oppression, our country's inhumane drive for profit and obvious disregard for the value, worth and freedom inherent in every life. The slavery of our past offends every modern sensibility we have; yet, we cannot bury these stories as just part of the distant past.

Slavery exists today. Despite the heroic work of liberators centuries before us, and despite the fact that almost every country in this world has constitutionally outlawed slavery, as many as 27 million people are in bondage according to the 2006 Trafficking in Persons Report. This slavery, although in many ways different from the slavery in centuries past, is equally horrifying and brutal. Among other practices, it includes sexual exploitation, bonded labor, forced labor, forced marriage, chattel slavery and child labor.

An estimated 800,000 persons are trafficked across international borders each year, and an estimated 18,000 to 20,000 victims are trafficked into the United States each year. Approximately 80 percent of the victims are female and an estimated 40 to 50 percent are children. Unfortunately, unlike the slavery of our past, modern-day slavery takes on myriad, subtler forms, making it more difficult to identify and eradicate. Within countries where the trade originates, a seemingly endless supply of victims remains available for exploitation, and within the destination countries there seems to be an endless demand for the ''services'' of victims. Organized criminal networks—some large and some small—have taken control of this economic supply and demand situation, establishing an appalling, but often invisible trade of humans in the 21 century.

This modern-day slavery is notable for the variety and complexity of the trafficking networks that operate and sustain it. The forms of slavery, such as sex-trafficking, are incredibly adaptive: these networks extend to every region and virtually every country in the world—representing a truly global industry. Slavery of all forms is extremely profitable for the exploiters, and they capitalize on the weak and vulnerable, the desperate and unstable. They are most successful in areas of conflict and postconflict, transitioning states, sudden political change, economic collapse, widespread poverty, and natural disasters. Weak legal infrastructure, corrupt law enforcement officials, globalization and the lack of equal employment opportunity have fed this iniquitous multibillion-dollar criminal industry.

Women are often lured by promises of employment as shopkeepers, maids, seamstresses, nannies, or waitresses but then find themselves forced into prostitution upon arrival to their destination. Their traffickers seize travel documents, create enormous and unsubstantiated debt demands, and subject the women to brutal beatings if their earnings are unsatisfactory.

Girls, as young as five, are often kidnapped or even sold by trusted relatives into the transatlantic sex trade. They are often raped, beaten, and forced to sleep with 10 to 15 men per night. These young children are manipulated, coerced, and held in bondage. Victims are often isolated, unable to speak the language of the land they are transported to, and are often unfamiliar with the culture. Without the support network of their family and friends, they are incredibly vulnerable to their oppressors' demands.

The victims of modern-day slavery often face torture, violence, poor nutrition, and drug and alcohol addiction. They contract HIV/AIDS, suffer from severe trauma and depression, and are stripped of dignity and hope for their future. As I have continued to work on legislation that reaches the populations most deeply affected by the HIV/AIDS epidemic, violence against women, and child exploitation, I am offended by the complete disrespect for life that binds these horrors together.

We, as a nation, cannot stand idle. As William Wilberforce said, ''it is we who are now truly on trial before the moral sense of [this world], and if we shrink from it, deeply shall we hereafter repent our conduct.'' As a Congress, we have come together to call our country and others to action in the fight against human trafficking; I commend the work of this administration, the NGOs, and the freedom-fighters throughout the world who have been working to address this nefarious issue.

Yet despite our hard work, we have an obligation to do more. Today I am submitting a resolution and introducing a bill that call for a deeper commitment to the cause of abolishing

modern-day slavery. The resolution calls us to make modern-day slavery a priority in our foreign and domestic policy. This resolution resolves that the abolition of modern-day slavery should be prioritized at the 2007 G8 Summit and calls for the trade policy of the United States to reflect our commitment to freedom for all people.

I am also introducing a bill for the formation of a bipartisan congressional commission that will conduct a thorough and thoughtful study of all matters relating to modern-day slavery, working alongside the programs we have implemented so far. This commission will make recommendations for our country and for abolitionists worldwide including identifying the countries which provide the greatest opportunity for abolition of modern-day slavery specific to U.S. involvement. Currently, many of the very qualified groups that work to free slaves are scattered. Some of these groups are better at extraction, while others are better at rehabilitation; the commission will make recommendations that seek to bring these incredible groups together to provide the most sustainable options for rescued victims.

The commission will examine the economic impact on communities and countries that have demonstrated measured success in fighting modern-day slavery. I recently learned of a small village in South Asia where over 70 emancipated slaves have now been elected to positions of leadership in their community. They have built their first well to serve the community and are representing others who are vulnerable to oppression.

Additionally, this commission will make recommendations which work to increase education and awareness about modern-day slavery throughout the United States with the purpose of fighting modern-day slavery.

The potential exists for real and systemic change. Together, this commission and this resolution will work to support a full and rich circle demonstrating the power of emancipation. We have a tremendous opportunity to reaffirm our commitment as a nation to spreading freedom for all people by eradicating the horrendous scourge of modern-day slavery. I look forward to following the example of the abolitionists before us to end this worldwide evil.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Congressional Commission on the Abolition of Modern-Day Slavery Act''.

SEC. 2. MODERN-DAY SLAVERY.

In this Act, the term ''modern-day slavery'' means the recruitment, harboring, transportation, receipt, procurement, or control of persons through the use of force, fraud, coercion, abduction, deception, abuse of power, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of subjection to debt bondage, serfdom, involuntary servitude, forced labor, chattel, forced marriage, peonage, sexual exploitation, or trafficking.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The Declaration of Independence recognizes the inherent dignity and worth of all people and states that all people are created equal and are endowed by their Creator with certain unalienable rights, and the right to be free from slavery and involuntary servitude is among those unalienable rights.

(2) Despite international laws outlawing modern-day slavery, modern-day slavery affects virtually every country in the world, and as many as 27,000,000 people are victims. Modern-day slavery is one of the fastest growing areas of international criminal activity and is an increasing concern to the United States Administration, Congress, and the international community; the Federal Bureau of Investigation estimated that modern-day slavery generates over $9,000,000,000 every year.

(3) Traffickers use threats, intimidation manipulation, coercion, fraud, shame, and violence to force victims into modern-day slavery. Traffickers capitalize on areas of conflict and post-conflict, transitioning states, sudden political change, economic collapse, civil unrest, internal armed conflict, chronic unemployment, widespread poverty, personal disaster, lack of economic opportunity, and natural disasters.

(4) Modern-day slavery: contributes to the breakdown of societies due to the loss of family support networks; has a negative impact on the labor market in countries; brutalizes men, women, and children and exposes them to rape, torture, HIV/AIDS and other sexually transmitted diseases, violence, dangerous working conditions, poor nutrition, drug and alcohol addiction, severe psychological trauma from separation, coercion, sexual abuse, and depression; and strips human beings of dignity, respect, and hope for their future.

(5) The United States has given priority to combating human trafficking through the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164).

(6) The State Department issued its sixth congressionally mandated Trafficking in Persons Report (TIP) in June, 2006, which categorizes countries into tiered groups according to the efforts they are making to combat trafficking. The countries that do not cooperate in the fight against trafficking (Tier 3 Countries) have been made subject to United States sanctions since 2003, under the President's direction.

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a congressional Commission on the Abolition of Modern-Day Slavery (referred to in this Act as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members, of whom—

(A) 3 shall be appointed by the Speaker of the House of Representatives;

(B) 3 shall be appointed by the majority leader of the Senate;

(C) 3 shall be appointed by the minority leader of the House of Representatives; and

(D) 3 shall be appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members of the Commission shall be appointed from among individuals with demonstrated expertise and experience in combating modern-day slavery and trafficking of persons.

(3) DATE.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) COCHAIRPERSONS.—The Speaker of the House of Representatives shall designate 1 of the members appointed under subsection (b)(1)(A) as a cochairperson of the Commission. The majority leader of the Senate shall designate 1 of the members appointed under subsection (b)(1)(B) as a cochairperson of the Commission.

(e) INITIAL MEETING.—Not later than 60 days after the date of enactment of this Act, the Commission shall hold its first meeting.

(f) MEETINGS.—The Commission shall meet at the call of either cochairperson.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 5. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a thorough and thoughtful study of all matters relating to modern-day slavery, including vulnerabilities of commonly affected populations, such as populations in areas of conflict and post conflict, transitioning states, states undergoing sudden political change, economic collapse, civil unrest, internal armed conflict, chronic unemployment, widespread poverty, lack of opportunity, and national disasters;

(B) study the roles of the rule of law, lack of enforcement, and corruption within international law enforcement institutions that allow the proliferation of modern-day slavery;

(C) review all relevant Governmental programs in existence on the date of the beginning of the study, including the United States Agency for International Development, the Department of State, the Department of Defense, the Department of Labor, the Department of Health and Human Services, the Interagency Task Force to Monitor and Combat Trafficking, and the Human Smuggling and Trafficking Center; and

(D) convene additional experts from relevant nongovernmental organizations as part of the Commission's thorough review.

(2) GOALS.—In making determinations under paragraph (1), the Commission shall seek to promote goals of—

(A) providing a comprehensive and fully integrated evaluation of best practices, to prevent modern-day slavery;

(B) providing a comprehensive and fully integrated evaluation of the best practices to rescue and rehabilitate victims of modern-day slavery;

(C) providing a comprehensive and fully integrated evaluation of the best practices for prosecution of traffickers and increasing accountability within countries;

(D) providing a comprehensive and fully integrated evaluation of exportable models to prevent modern-day slavery, rescue and rehabilitate victims of modern-day slavery, prosecute offenders, and increase education and accountability about modern-day slavery, which could contribute governments, nongovernmental organizations, and institutions;

(E) identifying countries which provide the greatest opportunity for abolition of modern-day slavery specific to United States involvement;

(F) connecting various organizations to facilitate integration of information regarding identifying, extracting, and rehabilitating victims;

(G) examining the economic impact on communities and countries that demonstrate measured success in fighting modern-day slavery;

(H) increasing education and awareness about modern-day slavery throughout the United States to decrease modern-day slavery within the United States and abroad; and

(I) providing a comprehensive evaluation of best practices to educate high-risk populations.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on how to best combat modern-day slavery, including an economic, social, and judicial evaluation.

(c) REPORT.—Not later than 11 months after the date of enactment of this Act, the Commission shall submit a report to the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate, which shall contain a detailed statement of the legislation and administrative actions as it considers appropriate.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Act.

(b) INFORMATION FROM GOVERNMENTAL AGENCIES.—The Commission may secure directly from any department or agency such information as the Commission considers necessary to carry out this Act. Upon request of either cochairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

SEC. 7. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5313 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The cochairpersons of the Commission, acting jointly, may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The cochairpersons of the Commission, acting jointly, may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United Sates Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Federal Government employees may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The cochairpersons of the Commission, acting jointly, may procure temporary and intermittent services under section 3109 (b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 8. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 5.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Commission for fiscal year 2007 such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expensed.

By Mrs. CLINTON:

S. 3790. A bill to create a set of effective voluntary national expectations, and a voluntary national curriculum, for mathematics and science education in kindergarten through grade 12, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to introduce legislation to help ensure that American students are competitive in the global economy of 21st century. If approved, The National Mathematics and Science Consistency Act would ensure that America's children have access to a rigorous math and science education. This bill will help young men and women in America compete successfully with students from around the world.

Last fall the National Academy of Sciences, NAS, outlined the challenges to American competitiveness in its report, ''Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future.'' The reality is that modern technology makes it increasingly possible for employers to hire the most skilled workers wherever in the world they live. Unfortunately, too many American students—even some graduates of high school and college—are not equipped with the skills they need to compete successfully in the global economy.

Among 12th graders, America ranks 21st out of 40 industrialized nations in tests of math and science knowledge. Just one in three of America's college graduates earn degrees in math, science, and engineering while two in three college graduates of other countries do so. We must act now to improve education and research in science, technology, engineering, and mathematics, STEM, if America is to retain leadership of the global economy in the 21st century.

In ''Rising Above the Gathering Storm,'' the National Academy of Sciences made 20 recommendations for how America can increase its global competitiveness. Nineteen of the 20 recommendations were proposed in the PACE Acts—PACE-Education, PACE-Energy, and PACE-Finance. I was proud to cosponsor these bills, and it is a testament to the widespread concern regarding this issue that each bill has been cosponsored by more than 60 Senators.

The Mathematics and Science Consistency Act would implement the final NAS recommendation—for the Department of Education to convene a national panel of experts that will collect proven effective K–12 science and mathematics teaching materials, and, if effective models don't exist, create new ones. All materials would be made available online, free of charge, as a voluntary national curriculum that would provide an effective standard for K–12 teachers to use as a resource.

Regrettably, many States have set standards for math and science education at an abysmally low level. A Fordham report entitled ''The State of State Science Standards 2005'' found that nearly half of the States are doing a poor job of setting academic standards for science.

The result of low State standards is that States think their students are passing, teachers think their students are passing, and students think they are passing when they in fact are not. For example, a review of 12 diverse States by a team at the University of California at Berkeley found that the typical State reports that 77 percent of its fourth graders are proficient in mathematics as assessed by the State standard, while just 36.5 percent of fourth grade students in the typical State score as proficient in mathematics as assessed by the gold-standard National Assessment of Education Progress. Lowering academic standards does not adequately prepare our students to meet the demands of the global economy.

The Mathematics and Science Consistency Act will help States raise standards and invest in high-quality teaching through the collection of best practices and ensure that a world-class curriculum is available. Under my bill, it is entirely up to States whether to adopt the recommendations of the panel. States that do would be eligible for grants to acquire instructional materials, to make those materials available online and free to teachers and school staff, and to train teachers to effectively use the instructional materials.

Again, I want to emphasize that this bill provides assistance to States that wish to work together to ensure that all children are taught a rigorous, common curriculum. The Mathematics and

Science Consistency Act would implement the final recommendation made in the Gathering Storm report, and it will help ensure that our children are prepared to compete with success in the 21st century.

It is high time to do what is best for our children and their economic future. I am hopeful that my Senate colleagues from both sides of the aisle will join me today to move this legislation to the floor without delay.

By Mr. MARTINEZ:

S. 3792. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified elementary and secondary education tuition; to the Committee on Finance.

Mr. MARTINEZ. Mr. President, today I rise to discuss a bill that aims to give America's children access to greater educational opportunities. As history has taught us, advanced societies are always built on a foundation of a few shared values—and education is a chief component of that foundation.

For 21st century America to continue to lead the world, the leaders of this great Nation of ours must remain committed to providing every American child the opportunity to succeed in the classroom. A quality education unlocks the doors that lead to bigger life opportunities. As the axiom goes, knowledge is power [attributed to Sir Francis Bacon].

In addition, our educational system should be helping parents to make better choices, not taking choices away from them.

That is why I am introducing the Tax and Education Assistance for Children (TEACH) Act of 2006.

Representative VITO FOSSELLA of New York has already introduced this bill in the House of Representatives, where it has collected 34 cosponsors. Six of those cosponsors come from my home State of Florida. Those cosponsors are JEFF MILLER, GINNY BROWN-WAITE, DAVE WELDON, JOHN MICA, KATHERINE HARRIS and TOM FEENEY.

There is a good reason for this. In Florida and across America today, our public schools are facing new and troubling challenges.

Many public schools are suffering from overcrowding, leading to a myriad of problems such as teacher shortages, threats to campus security, a lack of books, desks, and computers, to name a few. In this country, known to the world as a ''land of opportunity,'' American parents deserve better than to have their children suffer through a failing school system.

We live in a consumer-driven society where numerous choices abound: car or SUV, caffeinated or decaf, book in print or book on tape.

We live in a country where you can make airline reservations from a portable electronic device, where a doctor can remotely assist in a surgery from thousands of miles away, where we can power our homes with Sun, wind, or water, and yet too often parents do not have a basic choice for their children: public school or private school.

Many parents would like to send their children to a traditional private, religious, or military school, however, they are often unable to do so because of the high costs of such an endeavor.

Many middle-class parents make enough to take care of their families, but not enough for their families to pick up and move to a better school district or for them to send their children to a private school where they are living.

As we know, it is the innate desire of parents to want to provide the very best for their children. While public schools are the right choice for tens of millions of American children each and every year, more than 5 million American students currently attend private schools at little or no cost to American taxpayers.

We want to help students reach their maximum potential. In this country and around the globe, the best educated people are nearly always the ones leading their respective communities forward.

This bill would establish a tax credit of up to $4,500 per family for private elementary or secondary school tuition. Single parents would also be eligible for the credit.

And because we always want to be responsible with how taxpayers' money is spent, the tax credit is nonrefundable. To elaborate, this means that if tuition is only three thousand dollars at a school, families will only be able to deduct that amount.

This credit would pass along a small portion of taxpayer savings back to the families that help generate it.

For all those middle-class and lower income families across America who feel trapped, who feel as if they don't have the power to choose what is best for their children and their educational needs, the TEACH Act of 2006 will make it possible for them to choose the best learning environment for their children.

It is also important to note that this bill does not institute a voucher program. Instead, as a Federal income tax credit, it helps families to have choices, while not detracting from the funding sources needed to continue upkeep of and improvements in our public schools.

This bill would alleviate the financial burden on our public schools, and thus allow schools to devote greater resources toward improving the educational experience for all students.

And the American taxpayer should not worry that this bill will reduce the funding for their child's school or for any other public school—it won't. What it will do is increase the value of every child's educational experience, be it in a public or private school.

According to the U.S. Census Bureau statistics from 2004, the cost of educating a student in the public school system is close to $8,000 a year. Multiplied out, this comes to a total savings of over $42 billion a year for our public school systems.

If the millions of privately educated students in this country were to be publicly educated, every taxpayer would have to bear that burden.

With this legislation, parents win because their children get the best education possible and the American taxpayer wins because they owe nothing more.

And where Florida is concerned, according to the aforementioned U.S. Census Bureau statistics, approximately, $6,000 is spent annually per public school student in the Sunshine State.

With more than 350,000 students attending private schools in Florida annually, our State's taxpayers save $2.2 billion—and that savings can benefit public schools.

The TEACH Act of 2006 would help to add to those savings.

America is an ownership society where people get to make choices about how they spend their money and where they are going to spend it.

With a choice as important as where and how our children are educated, we need to put more of the power in the hands of the parents.

While this is in no way comprehensive education reform, it is another big step in the right direction.

I encourage my Senate colleagues to learn more about the TEACH Act and to work with me to push through this legislation that will help our children across America receive the education that they need.

Remember, if we do not continue to invest in our future today, tomorrow will not show us the bright promise that it can. Let us carry that promise home to more Americans today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tax and Education Assistance for Children (TEACH) Act of 2006''.

SEC. 2. CREDIT FOR QUALIFIED ELEMENTARY AND SECONDARY EDUCATION TUITION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. QUALIFIED ELEMENTARY AND SECONDARY EDUCATION TUITION.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for a taxable year an amount equal to the qualified elementary and secondary education tuition paid or incurred by the taxpayer during the taxable year.

''(b) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) with

respect to the taxpayer for any taxable year shall not exceed—

''(1) $4,500 in the case of a joint return,

''(2) $4,500 in the case of an individual who is not married, and

''(3) $2,250 in the case of a married individual filing a separate return.

''(c) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION TUITION.—

''(1) IN GENERAL.—The term 'qualified elementary and secondary education tuition' means expenses for tuition which are incurred in connection with the enrollment or attendance of any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 as an elementary or secondary school student at a private or religious school.

''(2) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Qualified elementary and secondary education tuition.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

By Mr. CRAPO:

S. 3794. A bill to provide for the implementation of the Owyhee Initiative Agreement, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAPO. Mr. President, I am pleased to introduce the Owyhee Initiative Implementation Act of 2006, a bill which is the result of a 5-year collaborative effort between all levels of government, multiple users of public lands, and conservationists to resolve decades of heated land-use conflict in the Owyhee Canyonlands in the southwestern part of my home State of Idaho.

This is comprehensive land management legislation that enjoys far-reaching support among a remarkably diverse group of interests that live, work and play in this special country.

Owyhee County contains some of the most unique and beautiful canyonlands in the world and offers large areas in which all of us can enjoy the grandeur and experience of untouched western trails, rivers, and open sky. It is truly magical country, and its natural beauty and traditional uses should be preserved for future generations.

Owyhee County is traditional ranching country. Seventy-three percent of its land base is owned by the United States, and it is located within an hour's drive of one of the fastest growing areas in the nation, Boise, ID.

This combination of attributes, including location, is having an explosive effect on property values, community expansion and development and ever-increasing demands on public land. Given this confluence of circumstances and events, Owyhee County has been at the core of decades of conflict with heated political and regulatory battles.

The diverse land uses co-exist in an area of intense beauty and unique character. The conflict over land management is both inevitable and understandable—how do we manage for this diversity and do so in a way that protects and restores the quality of that fragile environment?

In this context, the Owyhee County Commissioners and several others said ''enough is enough'' and decided to focus efforts on solving these problems rather than wasting resources on an endless fight. In 2001, The Owyhee County Commissioners, Hal Tolmie, Dick Reynolds and Chris Salove met with me and asked for my help.

They asked whether I would support them if they could put together at one table the interested parties involved in the future of the County to try and reach some solutions. I told them that if they could get together a broad base of interests who would agree to collaborate in a process committed to problem-solving, I would dedicate myself to working with them and if they were successful, I would introduce resulting legislation. They agreed.

Together, we set out on a 5-year journey on a road that is as challenging as any in the Owyhee Canyonlands. Sharp turns, steep inclines and declines, big sharp rocks, deep ruts, sand burrs, dust and a constant headwind is exactly what those of us who have worked so hard on this have faced every day.

This is very difficult work and in speaking of difficult work, I want to acknowledge the effort of my friend and colleague from Idaho, Representative MIKE SIMPSON, and the challenge he has taken on as he advocates his Central Idaho Economic Development Act. I support his work and his legislation.

The Commissioners appointed a chairman, an extraordinary gentleman, Fred Grant. They formed the Work Group which included The Wilderness Society, Idaho Conservation League, The Nature Conservancy, Idaho Outfitters and Guides, the United States Air Force, the Sierra Club, the county Soil Conservation Districts, Owyhee Cattleman's Association, the Owyhee Borderlands Trust, People for the Owyhees, and the Shoshone Paiute Tribes to join in their efforts. All accepted, and work on this bill began.

As this collaborative process gained momentum, the county commissioners expanded the Work Group to include the South Idaho Desert Racing Association, Idaho Rivers United and the Owyhee County Farm Bureau. Very recently, the commissioners have further expanded the effort to include the Foundation for North American Wild Sheep and the Idaho Backcountry Horsemen.

The commissioners also requested that the Idaho State Department of Lands and the Bureau of Land Management serve, and those agencies have provided important support.

This unique group of people chose to work without a professional facilitator, preferring instead to deal with differences face-to-face and together create new ideas. For me, one of the most gratifying and emotional outcomes has been to see this group transform itself from polarized camps into an extraordinary force that has become known for its intense effort, comity, trust and willingness to work toward a solution.

They operated on a true consensus basis, only making decisions when there was no voiced objection to a proposal.

They involved everyone who wanted to participate in the process and spent hundreds of hours discussing their findings, modifying preliminary proposals and ultimately reaching consensus solutions. They have driven thousands of miles inspecting roads and trails, listening to and soliciting ideas from people from all walks of life who have in common deep roots and deep interest in the Owyhee Canyonlands.

They sought to ensure that they had a thorough understanding of the issues and could take proper advantage of the insights and experience of all these people.

While this whole process and its outcomes are indeed remarkable, one of the more notable developments is the Memorandum of Agreement between the Shoshone Paiute Tribes and the County that establishes government-to-government cooperation in several areas of mutual interest. I want to particularly note the efforts and support of Mr. Terry Gibson, Chairman of the Shoshone Paiute Tribes, a great leader and a personal friend of mine.

All of these individuals and organizations have asked that I seek Senate approval of their collaborative effort, built from the ground up to chart their path forward.

The Owyhee Initiative transforms conflict and uncertainty into conflict resolution and assurance of future activity. Ranchers can plan for subsequent generations. Off-road vehicle users have access assured. Wilderness is established. The Shoshone-Paiute Tribe knows its cultural resources will be protected. The Air Force will continue to train its pilots.

Local, state and Federal agencies will have structure to assist their joint management of the region. And this will all happen within the context of the preservation of environmental and ecological health. This is indeed a revolutionary land management structure—and one that looks ahead to the future.

Principal features of the legislation include:

Development, funding and implementation of a landscape-scale program to review, recommend and coordinate landscape conservation and research projects;

Scientific review process to assist the Bureau of Land Management;

Designation of Wilderness and Wild and Scenic Rivers;

Release of Wilderness Study Areas;

Protections of tribal cultural and historical resources against intentional and unintentional abuse and desecration.

Development and implementation by the BLM of travel plans for public lands;

A board of directors with oversight over the administration and implementation of the Owyhee Initiative.

This can't be called ranching bill, or a wilderness bill, or an Air Force bill, or a tribal bill. It is a comprehensive land management bill.

Each interest got enough to enthusiastically support the final product, advocate for its enactment, and, most importantly, support the objectives of those with whom they had previous conflict.

Opposition will come from a few principal sources: those who simply don't want to have wilderness designated; those who don't want livestock anywhere on public land; and, those who do not want to see collaboration succeed. While I respect that opposition, I prefer to move forward in an effort that manages conflict and land, rather than exploit disagreements.

The status quo is unacceptable. The Owyhee Canyonlands and its inhabitants, including its people, deserve to have a process of conflict management and a path to sustainability. The need for this path forward is particularly acute given that this area is an hour's drive from one of the nation's most rapidly-growing communities. The Owyhee Initiative protects water rights, releases wilderness study areas and protects traditional uses.

I commend the commitment and leadership of all involved. We have established a long-term, comprehensive management approach. It's been an honor for me to work with so many fine people and I will do everything in my power to turn this into law.

The Owyhee Initiative sets a standard for managing and resolving difficult land management issues in our country. After all, what better place to forge an historical change in our approach to public land management, than in this magnificent land that symbolizes livelihood, heritage, diversity, opportunity and renewal?

And with that, I would like to recognize and thank the people who have been the real driving force behind this process: Fred Grant, Chairman of the Owyhee Initiative Work Group, his assistant Staci Grant, and Dr. Ted Hoffman, Sheriff Gary Aman, the Owyhee County Commissioners: Hal Tolmie, Chris Salova, and Dick Reynolds and Chairman Terry Gibson of the Shoshone Paiute Tribes. I am grateful to Governor Jim Risch of the Great State of Idaho for all of his support.

Thanks to: Colonel Rock of the United States Air Force at Mountain Home Air Force Base, Craig Gherke and John McCarthy of The Wilderness Society, Rick Johnson and John Robison of the Idaho Conservation League, Inez Jaca representing Owyhee County, Dr. Chad Gibson representing the Owyhee Cattleman's Association, Brenda Richards representing private property owners in Owyhee County, Cindy and Frank Bachman representing the Soil Conservation Districts in Owyhee County, Marcia Argust with the Campaign for America's Wilderness, Grant Simmons of the Idaho Outfitters and Guides Association, Bill Sedivy with Idaho Rivers United, Tim Lowry of the Owyhee County Farm Bureau, Bill Walsh representing Southern Idaho Desert Racing Association, Lou Lunte and Will Whelan of the Nature Conservancy for all of their hard work and dedication. I'd also like to thank the Idaho Back Country Horseman, the Foundation for North American Wild Sheep, Roger Singer of the Sierra Club, the South Board of Control, and the Owyhee Project managers, and all the other water rights holders who support me today. This process truly benefited from the diversity of these groups and their willingness to cooperate to reach a common goal.

The Owyhee Canyonlands and its inhabitants are truly a treasure of Idaho and the United States; I hope you will join me in ensuring their future.

It is my honor and privilege to introduce this legislation today to protect and preserve this tremendous part of Idaho and the people who live there.

By Mr. SMITH (for himself, Mr. ROCKEFELLER, Mr. ISAKSON, Mr. DEWINE, Mr. BURR, Mr. BINGAMAN, Ms. STABENOW, and Mr. MENENDEZ):

S. 3795. A bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my friend and colleague from Oregon, Senator SMITH, to introduce the Access to Medicare Imaging Act of 2006. This legislation would require a 2-year moratorium on the imaging cuts enacted as part of the Deficit Reduction Act, pending the outcome of a comprehensive study of Medicare imaging utilization and payment by the Government Accountability Office, GAO.

Each year, millions of Medicare patients receive medical imaging services, including x-rays, CT-scans, MRIs, and PET scans, to name just a few. Imaging devices allow doctors to more accurately diagnose and treat a wide range of human conditions, and patients who receive imaging services enjoy the peace of mind that comes from more precise diagnoses of disease. It would not be an overstatement to say that medical imaging has revolutionized the manner in which physicians practice medicine and the manner in which patients receive health care.

The widespread use of digital imaging equipment allows providers to easily exchange images across the Internet, facilitating greater and more timely physician consultation and, most people believe, improving the quality of care received by the patient. This same technology allows greater access to radiology professionals across the country for individuals living in rural and other medically underserved areas, which is a big deal in West Virginia.

Consider, if you will, Braxton Memorial Hospital in the small town of Gassaway in central West Virginia. Braxton Memorial is a remote, critical access hospital without the services of a radiologist. Because of imaging technology, trained medical staff at Braxton Memorial can take a digital x-ray and, within minutes, send a precise copy to a major medical facility in Charleston. There, it is read by a radiologist, who then returns a written report by e-mail. A few years back this was still science fiction, but now it happens every hour of every day across the country.

As incredible as these services may seem and as important as they are to the practice of effective clinical medicine, there is a perception that imaging services also come with an increased cost. Over the past few years, the use of imaging services by Medicare beneficiaries has increased significantly. In fact, MedPAC reported in March 2005 that imaging grew at twice the rate of all other physician fee schedule services between 1999 and 2003. During that time, MRI and CT procedures increased by 15 percent to 20 percent per year on their own.

In addition to rising costs, MedPAC further reinforced ongoing concerns about potential overuse of imaging services and the sudden increase of outpatient-based imaging in primary care settings. Citing a lack of training and implementation of imaging guidelines, MedPAC called upon Congress to direct the Secretary of Health and Human Services to define and execute such standards.

Given the MedPAC report, imaging reimbursement became an easy budget target during the reconciliation debate last year. I am concerned, however, that the $8 billion in imaging cuts were prematurely added to the Deficit Reduction Act. I believe these cuts were arbitrarily determined in order to meet a budget target and were not based on sound public policy. I am also very concerned about the impact these cuts will have on the imaging profession and on Medicare beneficiaries' access to imaging services.

We should not put the health of our seniors at risk in order to achieve an arbitrary budget target. So today I join Senators SMITH, BINGAMAN, ISAKSON, STABENOW, DEWINE, MENENDEZ, and BURR in calling for a 2-year delay of these cuts so that a comprehensive GAO study can be completed. A thorough GAO analysis of Medicare reimbursement for imaging services will provide greater insight into this important field of medical practice and help inform our decisions going forward. I urge my colleagues to join with us in supporting this timely legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Access to Medicare Imaging Act of 2006''.

SEC. 2. TWO-YEAR MORATORIUM ON CERTAIN MEDICARE PHYSICIAN PAYMENT REDUCTIONS FOR IMAGING SERVICES.

(a) MORATORIUM.—Subsections (b)(4)(A) and (c)(2)(B)(v)(II) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4), as added by section 5102(b) of the Deficit Reduction Act of 2005, are each amended by striking ''2007'' and inserting ''2009''.

(b) GAO STUDY AND REPORT ON IMAGING SERVICES FURNISHED UNDER THE MEDICARE PROGRAM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a comprehensive study on imaging services furnished under the Medicare program.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress and the Secretary of Health and Human Services a report on the findings and conclusions of the study conducted under paragraph (1) together with recommendations for such legislation and administrative actions as the Comptroller General considers appropriate.

By Mrs. CLINTON (for herself and Mr. JOHNSON):

S. 3797. A bill to establish demonstration projects to provide at-home infant care benefits; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I am pleased to introduce today legislation to provide parents new options to balance family and work.

The reality of today's economy is that most parents must work to provide economic security for their families—a reality that is particularly true when a new baby is welcomed into the family. In fact, 55 percent of women with infants younger than one year of age work. As a result, working parents face the challenge of providing economic security for their family while simultaneously ensuring that their infant receives the quality care that he or she needs.

Research shows that the quality of caretaking in the first months and years of life is critical to a newborn's brain development, social development and well-being. Yet there is currently a severe shortage of safe, affordable, quality care for infants. The number of licensed child care slots for infants meets only 18 percent of the need. The shortage is particularly acute in rural areas, and especially in rural areas that have many low-income residents.

In the ideal circumstance, I think we would all agree, parents who need affordable, high-quality care for their infant would provide that care themselves. Unfortunately, in many low- and moderate-income families, having a parent quit his or her job or reduce work hours to care for an infant is not financially viable. Doing so would plunge the family into an economic crisis. Rather, parents should have the choice of using a state child care subsidy to obtain infant care outside the home or of keeping the subsidy so they can stay home and care for their child themselves without risking their family's financial security.

The Choices in Child Care Act of 2006 would provide parents this choice. The bill amends the child care development block grant, CCDBG, so that low- and moderate-income parents have the option of forgoing a State childcare subsidy for infant care outside the home and instead receiving a comparable stipend to provide the care themselves while keeping the family economically stable. Providing support for at-home infant care would give thousands of working families the help they need to balance work and care for their infant children. The bill would also help meet the critical shortage of infant childcare, provide cost savings to state child care programs, support quality care for the critical first years of a child's development, and value parenting as a form of work.

The time has come for us to recognize the challenges facing families today and give parents additional resources and options to address those challenges. I urge my colleagues to join me in supporting the Choices in Child Care Act of 2006.

By Mrs. FEINSTEIN:

S. 3798. A bill to direct the Secretary of the Interior to exclude and defer from the pooled reimbursable costs of the Central Valley Project the reimbursable capital costs of the unused capacity of the Folsom South Canal, Auburn-Folsom South Unit, Central Valley Project, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce a bill that is based on the simple fairness principle that you should pay for what you get, no more and no less. In this case California water districts have been paying for years for conveyance capacity on the Folsom South Canal that they do not use.

This bill would direct the Secretary of the Interior to exclude and defer from the pooled, reimbursable costs of California's Central Valley Project, CVP, the capital costs of the unused capacity of the Folsom South Canal. Congressman LUNGREN has introduced similar legislation in the House of Representatives.

In 1970, two CVP contractors signed contracts with the Bureau of Reclamation to take water from the Folsom South Canal, which had yet to be built. The canal diverts water out of Lake Natomas, a regulating reservoir immediately downstream of Reclamation's Folsom Reservoir, to areas in southern Sacramento County.

The canal was originally designed to incorporate five ''reaches''—or sections—and deliver water to southern Sacramento County, San Joaquin County, and to the San Francisco Bay area. Because the planned East Side Division irrigation project was never constructed, the anticipated deliveries through the Folsom South Canal never materialized. Only two reaches of the canal were constructed, and those are dramatically overbuilt. In a departure from normal reclamation policy, which dictates that signed contracts are required prior to construction of projects, signed contracts were not obtained.

The canal was built with the capacity to deliver 2.5 million acre-feet of water per year, but the only entity currently diverting water through the canal—the Sacramento Municipal Utility District, SMUD—has only diverted a maximum of 20,000 acre-feet per year. In short, a significantly oversized canal has been used to deliver a very small quantity of water.

Under reclamation policy, the agency allocates the capital costs of the canal to the pool of all CVP municipal and industrial water—M&I—users regardless of whether they divert water through the Folsom South Canal. There are 32 M&I customers that are paying for the canal, including SMUD, Sacramento County Water District, East Bay MUD, Santa Clara Valley Water District and Contra Costa Water District. Today, only SMUD diverts any water through the canal, albeit only about 8 percent of the canal's capacity; the other customers have little or no benefit to the project that they fund. This inequity is difficult to explain to ratepayers that are already burdened with replacing aging infrastructure and upgrading water treatment technologies.

My legislation would direct the Secretary of the Interior to exclude and defer from those pooled reimbursable costs of the CVP, the costs of the unused capacity of the Folsom South Canal. While final deferral calculations will be performed by reclamation as directed by this bill, it is estimated that this bill will result in a deferral of approximately $35 million excess capacity costs.

The concept of deferring costs is not unique to the Folsom South Canal. Congress has authorized deferrals for other elements of the CVP and in other reclamation projects. Even though there are many instances where customers pay for unused capacity, there are no instances that come close to approaching the absurd inequity of being forced to pay for a canal that is producing 8 percent of what reclamation promised it would deliver.

Should the amount of CVP water conveyed through the Folsom South Canal change in the future, this bill includes a provision directing Interior to review the change and adjust the deferred costs accordingly for unused capacity.

I strongly believe this deferral is the correct approach to this issue. Reclamation made the decision to oversize this canal based on future planned expansions—expansions that did not materialize. The water districts that use the existing canal for limited conveyances should not pay for the consequences of public policy decisions that resulted in a significantly oversized canal. Water districts should pay for the canal conveyance capacity that they use—I think this is a fairness principle that we can all accept.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN AMOUNTS EXCLUDE AND DEFER FROM THE POOLED REIMBURSABLE COSTS RELATED TO THE CENTRAL VALLEY PROJECT.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall exclude and defer from the pooled reimbursable costs of the Central Valley Project the reimbursable capital costs of the unused capacity of the Folsom South Canal, Auburn-Folsom South Unit, Central Valley Project.

(b) CALCULATION OF AMOUNT OF DEFERRED USE.—The Secretary shall calculate the amount to be assigned to deferred use as soon as practical and such shall be reflected in future years' water rates.

(c) CALCULATION OF CAPITAL COSTS.—For the purpose of calculating the excluded reimbursable cost for the Folsom South Canal facility, the Secretary shall multiply the existing total reimbursable cost for the facility by a factor, to be determined by dividing the current minimum unused conveyance capacity of the canal by the original design conveyance capacity of the canal. The minimum unused conveyance capacity of the canal shall—

(1) be determined by the Secretary;

(2) be based upon actual historic measured flows in the canal and planned future flows; and

(3) include the amount of Central Valley Project water that was originally conveyed or was historically projected to be conveyed through the Folsom South Canal which may have been contractually assigned to another entity.

(d) REVIEW AND ADJUSTMENT.—The Secretary shall review and adjust—

(1) the amount described in subsection (b)(3) as appropriate and recalculate the amount of such unused capacity of the Folsom South Canal; and

(2) the amount of reimbursable capital costs of the Folsom South Canal.

(e) CONVEYANCE OF CERTAIN WATER.—So long as an entity that is allocated and that pays capital, interest, and operation and maintenance costs associated with an amount of Central Valley Project water historically assigned to the Folsom South Canal does not use the Folsom South Canal for the conveyance of Central Valley Project water, that entity shall be entitled, without additional cost, to convey up to an equivalent amount of non-Central Valley Project water through the Folsom South Canal.

By Mr. SMITH (for himself and Mr. KENNEDY):

S. 3801. A bill to support the implementation of the Darfur Peace Agreement and to protect the lives and address the humanitarian needs of the people of Darfur, and for other purposes; to the Committee on Foreign Relations.

Mr. SMITH. Mr. President, I rise today to introduce the Peace In Darfur Act of 2006, along with my distinguished colleague from Massachusetts, Senator KENNEDY. Our intention is to continue to press the Sudanese Government and rebel groups to honor the Abuja peace agreement reached on May 5 in Nigeria. We hope that this legislation will help bring about peace in the region.

Mr. President, I will ask animous consent to have printed in the RECORD the following letters from the Hebrew Immigrant Aid Society, the American Jewish Committee and the Archdiocese of Portland, OR.

Tragically, despite the Abuja peace agreement, the conflict in the Darfur region of Sudan has continued unabated throughout this spring and summer. The Janjaweed, a government supported militia, continues to attack innocent citizens and the government is unable, or unwilling, to stop this brutality.

This violence has led to an increasingly—dire humanitarian situation. More then 3 million people are dependent upon humanitarian assistance. Imagine the entire state of Oregon, which has three and a half million citizens, dependent upon humanitarian aid. This is what we face in Darfur today.

I commend the Bush administration for the work it has done in bringing about the Abuja peace agreement. America has been extraordinarily generous in providing over $1 billion worth of humanitarian assistance to those suffering in the region. Yet more must be done to bring an end to the conflict and give the Sudanese people a chance to live a normal life.

The Peace in Darfur Act of 2006 seeks to increase the prospect of full implementation of the Abuja peace agreement and address the unmet humanitarian needs in Darfur. The bill supports the deployment of a United Nations peacekeeping force to Darfur, intensifying the international pressure on the Government of Sudan to comply with the agreement and allow in U.N. peacekeepers. This bill also codifies existing sanctions and calls for additional targeted sanctions on Sudan's leaders.

While the African Union Mission in Sudan has performed admirably under difficult conditions, a stronger force must be deployed to provide stability, allow refugees to return to their homes, and restore some semblance of normalcy to those affected by the fighting. Section 4 of our legislation calls upon the Government of Sudan to allow a United Nations peacekeeping force into Darfur to achieve these important objectives.

Section 4 of our legislation also assigns the special envoy for Sudan, authorized in the fiscal year 2006 supplemental appropriations bill, the task of supporting the peace process. The urgency of this situation demands a constant level of attention at the highest level of our government, a task that the special envoy can facilitate.

Section 5 of the bill codifies sanctions against Sudan that were imposed by Executive Order 13067. Codifying these sanctions will send a strong message to the Sudanese government that signing the peace agreement is not sufficient—we expect their full compliance and cooperation to bring about a peaceful resolution to the ongoing conflict.

Section 6 of the bill requires the State Department to issue a report on the implementation of the Darfur Peace Agreement and a description of the humanitarian crisis. It also calls for the President to report on the international community's efforts to support the peace process and address humanitarian shortfalls. I believe this will hold accountable those countries that are actively undermining the peace agreement.

If the President certifies that the Government of Sudan is implementing the peace agreement and has agreed to allow the presence of a U.N. peacekeeping mission, then the legislation requires the President to request recommendations to further the peace process from the special envoy for Sudan.

However, if the President finds the Sudanese Government is impeding the peace process, the bill calls for the President to impose additional measures against Sudan, including enacting targeted sanctions on the Sudanese leadership and their immediate families.

Section 7 requires a State Department report on those companies investing $5 million or more in Sudan. This information can then be used to deter investment groups, retirement funds, and others from investing in corporations doing business in Sudan. The legislation requires the Department of the Treasury to issue a report summarizing the assets of Sudanese leaders in the United States and elsewhere. This report will give a full accounting of the Sudanese leaders' assets and will allow the Department of the Treasury to take actions on these assets.

Finally, section 8 of the legislation authorizes $150 million for humanitarian needs in Darfur (fiscal years 2008–2012 to alleviate the suffering of these needy people.

Mr. President, I am pleased that Senator KENNEDY has joined me in this effort. Our legislation is an important step in the efforts needed to bring peace to the region. We hope that it will continue to focus attention on the crisis and pressure the major actors to abide by the Abuja peace agreement.

Mr. President, I ask unanimous consent that the letters to which I referred earlier by printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN JEWISH COMMITTEE,
Washington, DC, August 2, 2006.

DEAR SENATOR: ''First they came first for the Communists, and I did not speak out because I was not a Communist. Then they came for the Socialists, and I did not speak out, because I was not a Socialist; Then they came for the trade unionists, and I did not speak out because I was not a trade unionist. Then they came for the Jews, and I did not speak out because I was not a Jew. Then they came for me, and there was no one left to speak out for me.''

In 1945 Lutheran Pastor Martin Niemoller's voice echoed around the globe as the world grieved over millions of lives lost at the hands of genocide. Sixty years later, America grieves as millions of innocent victims are being displaced, raped, tortured, and murdered in the Darfur region of Sudan.

Pressure is mounting for the Sudanese government to end its genocide. Over the past two years, Congress has allocated more than $250 million to expand and strengthen the role of the African Union Mission in Darfur and to provide additional humanitarian disaster relief throughout the region. As the nation's oldest human relations organization, the American Jewish Committee applauds Congress' action in approving these funds, but we believe that more must be done.

The fragile peace agreement reached in May now seems shattered as fighting continues to rage throughout the region. To halt the killing and displacement, civilians must be protected, the peace agreement must be implemented, and a secure environment must be established for the delivery of humanitarian aid. As atrocities, crimes against humanity and genocidal acts continue throughout the region, we urge you to take further action toward protecting besieged Sudanese civilians by supporting the Peace in Darfur Act.

The Peace in Darfur Act, introduced by Senators Gordon Smith and Edward Kennedy, directs the President to appoint a new special envoy to Sudan. The Special Envoy, in collaboration with international partners, would be best positioned to advance the Darfur peace process. The bill also calls on the government of Sudan to allow a UN peacekeeping force to enter Darfur; NATO to provide humanitarian, logistical, and personnel support to the UN; NATO to enforce the no-fly zone over Darfur; and the international community to not only support the African Union Mission (AMIS) in Sudan, but also to provide humanitarian assistance. The bill also authorizes an additional $150 million in humanitarian aid for Fiscal Years 2008–2012. Further, the bill mandates a Presidential report on the situation in Darfur that will cast new light on the Sudanese government's actions and provide a basis to impose targeted sanctions if necessary.

On behalf of a community that has suffered persecution and even genocide all too often in our history, we urge you to support this crucial piece of legislation. The time to act is now. History has demonstrated the price of standing idly by in the face of such horrors.

Respectfully,

RICHARD T. FOLTIN,
Legislative Director and Counsel.

THE HEBREW IMMIGRANT AID SOCIETY,
New York, NY July 28, 2006.

Hon. GORDON SMITH,
Senate Russell Office Building,
Washington, DC.
Hon. EDWARD M. KENNEDY,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR SMITH AND SENATOR KENNEDY: I am writing on behalf of the Hebrew Immigrant Aid Society (HIAS) to express our strong support for the ''Peace in Darfur Act of 2006.''

For over 125 years, HIAS has helped millions of people fleeing persecution and poverty through rescue, resettlement and reunion. The Jewish tradition's emphasis on refugee protection and our community's experience with the trauma of genocide and refugee flight make what's happening in Darfur an issue of primary concern for the Jewish community. We therefore applaud this bill for taking concrete steps to alleviate the inconceivable suffering and hardship that so many innocent Sudanese have endured in the past three years.

Specifically, we are pleased that this bill authorizes $150 million in additional funding to help meet tbe unmet humanitarian needs in Darfur. With an office in eastern Chad and programs in three refugee camps, HIAS has seen first-hand the dire consequences when the basic necessities of life, including food, water, and health services, are not met. In June 2005, HIAS launched the Initiative for Sudanese Refugees in Chad, which is intended to strengthen the refugees' psychological and social conditions and to convey skills needed to survive and function in the aftermath of extreme violence. Re-acquisition of these basic skills is crucial to break the chain of dependence and suffering caused by severe psychological trauma. By allocating additional funding to provide such basic necessities as food and water, this bill will help remove yet another hurdle to the Darfuri refugees' ability to support themselves and regain control over their lives and well-being.

The Jewish community, knowing all too well what results when genocide is met with silence and inaction, has aggressively denounced the genocide in Darfur and called on the U.S. Government to do more in response. By requiring the Administration to take several important actions, including appointing a Special Envoy for Sudan, the ''Peace in Darfur Act of 2006'' is a significant and vital bill that should be supported by all Members of Congress. To us, ''never again'' is more than just a quote—it is a mandate.

Sincerely,

GIDEON ARONOFF,
CEO and President.

ARCHDIOCESE OF PORTLAND IN OREGON,
Portland, OR, July 31, 2006.

Sen. GORDON SMITH,
Portland, OR.

DEAR SENATOR SMITH: Thank you for the opportunity to comment on the draft legislation ''Supporting Peace and Alleviating Suffering in Darfur'' that you are co-authoring with Senator Kennedy. The continuing violence and atrocities being committed in Darfur are tragic and deplorable. As people of faith we are compelled to do everything in our power to protect the lives and dignity of the victims. I deeply appreciate your leadership on this issue, and in particular your continuing efforts to introduce legislation in the U.S. Senate.

Archbishop Vlazny wrote that people of faith must demonstrate a willingness ''to go beyond our own boundaries to serve those in need and to work for global justice and peace. Ours is a shrinking and suffering world. Every once in a while a particular need in some corner of today's world becomes so acute that, for a time, it serves as the unique moral test of our society with respect to our care for the weakest among us . . . The Khartoum government has the greatest responsibility [for the violence and harassment directed against the Fur Zagahawa and Masaalite black African ethnic groups by the Janjaweed] and must be pressured to do what it can to bring an end to the conflict. We continue to urge the United Nations and our own government to apply that pressure.'' (Catholic Sentinel, August 26, 2004)

Even though the atrocities being committed against the population of Darfur were declared to be genocide by the international community in July 2004, the violence has continued unabated. It is clear that much more intensive and sustained engagement is required of the international community.

In May 2006, the Sudanese Government of National Unity and the Sudan Liberation Movement signed the Darfur Peace Agreement. Bishop Wenski, Chairman of the U.S. Conference of Catholic Bishops Committee on International Policy, said the peace accord ''will open the way for the United States to hold the Sudanese government to its promise of allowing the African Union peacekeeping force (AMIS) to be transformed into a more robust and mobile UN mission with a strong mandate. It is essential to strengthen significantly the presence and responsiveness of peacekeeping forces in Darfur, both to guarantee implementation of the peace agreement and to win the confidence of the people.''

In answer to the Gospel's call to protect human life and dignity, the U.S. Conference of Catholic Bishops joined the Save Darfur Coalition, an alliance of over 150 faith-based, humanitarian, and human rights organizations that organized the Million Voices for Darfur Campaign, in calling upon our leaders to no longer remain silent in the face of the killings, rape and wanton destruction occurring daily in Darfur.

The specific actions that were requested included:

(1) Retain urgently needed funding for humanitarian relief in the FY 2006 Emergency Supplemental Appropriations bill.

(2) Pressure the government in Khartoum to disarm the warring factions, cease all attacks against innocent civilians, provide unimpeded humanitarian access and bring to justice those perpetrating crimes against humanity.

(3) Pressure both the government and the rebels to respect the existing ceasefire agreement and to intensify the search for a durable peace during ongoing negotiations in Abuja, while simultaneously urging both Sudan and Chad to refrain from any escalation that might lead to threatened hostilities.

(4) Urge the U.S. to use its voice in the U.N. Security Council to ensure the continuation of the mandate of the African Union in Darfur to monitor the ceasefire, protect innocent civilians, and assist international humanitarian relief organizations, while urging NATO to provide AMIS with all possible logistical support until the transition to full-fledged UN peacekeeping force can be completed.

(5) Hold the signatories to the Comprehensive Peace Agreement fully accountable, and honor the promise to provide substantial financial and political support to the government of national unity to undertake the reconstruction of the country and its civil society.

(6) Urge the U.N. Security Council to continue its support for the peacekeeping mission that is working with all parties to the

national-unity government to implement the peace accord. The United States should provide adequate funding and logistical support so that peace and security might be achieved.

The draft legislation that you have proposed (''Supporting Peace and Alleviating Suffering in Darfur Act'', July 12, 2006 version) addresses these requested actions in a comprehensive and thorough manner. We are deeply grateful that you have demonstrated leadership on this issue and are willing to take the necessary steps to protect the people of Darfur from further harm. We join you in hoping that these measures will be fully effective.

The events of the past few months demonstrate that significant progress can be made with high level engagement on the part of the U.S. Congress and Administration. Please share our appreciation and gratitude with everyone who made this initial step toward peace possible. We offer our full support for continued and sustained leadership in the difficult time ahead.

Sincerely,

DAVID CARRIER, Ph.D.,
Director, Office of Justice and Peace.

Mr. KENNEDY. Mr. President, Senator SMITH and I have sent a bill to the desk to address the heart-wrenching crisis in Darfur and support the peace process there, and we look for its early consideration.

The horrifying violence in the Darfur region of Sudan was recognized by Congress and the Bush administration as genocide over 2 years ago, and it continues unabated today. However, rays of hope for peace can be seen on the horizon. On May 5, the Government of Sudan and the main rebel group, the Sudan Liberation Movement led by Minni Minnawi, agreed to a plan that, if implemented, could bring peace to Darfur.

The plan calls for an immediate cease-fire and requires the Government of Sudan to neutralize and disarm the Janjaweed militia, the gunmen supported by the government who have been conducting a bloody campaign to forcibly displace non-Arab tribes from Darfur.

The Darfur Peace Agreement is an opportunity we need to seize. To do so, greater international pressure on the Sudanese government will be required in order to improve the prospects of effective implementation. Developments since its signing indicate that the present level of international pressure isn't enough.

Three months have passed, but the Sudanese Government has done little to take the most important step in the peace plan—disarming the Janjaweed. Khartoum's past record is not encouraging. It has pledged to disarm the Janjaweed on previous occasions but then failed to follow through. This reluctance is not unexpected in light of the government's cynical use of the Janjaweed to exercise power in the Darfur region.

In recent months, the violence in Darfur has spilled over into neighboring Chad. The two governments each support armed groups opposed to the other. Sudanese helicopters and planes attack innocent villagers in Darfur, despite a United Nations order not to fly over Darfur.

The African Union Mission in Sudan, which has 7,000 peacekeepers in Darfur, has made a valiant effort to provide security and assist the people of Darfur. Nonetheless, the African Union peacekeepers are not able even to defend themselves, much less the two million refugees and internally displaced persons fleeing the violence. This mission is obviously unprepared and ill-equipped to press for and verify the implementation of the May 5 peace agreement.

Sudan appears to be waiting to see whether the international community will again just lament the crisis and make hollow threats, or is now ready and willing to take concrete steps. As one high-ranking Sudanese Government official said to a Boston Globe reporter, ''The United Nations Security Council has threatened us so many times, we no longer take it seriously.'' It is time for the United States and the international community to let the Sudanese Government know that this time we expect Sudan to carry through on its commitments in the Darfur Peace Agreement. Fortunately, the international community has already taken initial actions to support the May 5 Peace Agreement. The African Union and the United Nations are planning for the transfer of peacekeeping responsibilities from the African Union to the United Nations. In addition, NATO has begun planning on how to support a U.N. peacekeeping mission, and the European Union hosted a conference in July on assistance for Darfur.

Although the international community has signaled support for the Darfur Peace Agreement, Khartoum has been dragging its heels. In particular, it has not yet agreed to allow a U.N. peacekeeping mission into Darfur. The international community must strengthen its effort to persuade the Sudanese Government to comply with the agreement and permit the U.N. peacekeepers in Darfur.

One of the tragic outcomes of the Darfur violence is an alarming humanitarian crisis. More than 3 million people in Darfur are dependent on humanitarian assistance for survival. The violence in Darfur has forced millions to flee from their homes. The U.N. Office for the Coordination of Humanitarian Assistance reports that significant needs for health, food and water, and sanitation are not being met in Darfur. The World Food Program warns of a $400 million shortfall in the funds it now has for Sudan. Because of the shortages in food relief, the refugees are receiving only partial rations.

The children suffer most. One in four children in Darfur die before the age of five. The most needy frequently remain hidden, because insecurity in the region prevents them from making the dangerous trip to international relief centers.

The United States has been the largest single donor of humanitarian assistance to the people of Darfur, and we must continue our effort in order to give the people of the region much-needed aid. We must do more to encourage the international community to do so as well.

Sadly, the continuation of violence in the region has severely hindered humanitarian aid efforts. In the past 6 months, aid groups in eastern Chad have lost 26 vehicles to armed hijackers. One UNICEF worker was shot and nearly killed. It is unfair to put relief agencies in a situation where they must either risk having their aid workers murdered or raped, or pull out and leave thousands in Darfur to die. U.N. Secretary General Kofi Annan said of this crisis, ''Giving aid without protection is like putting a Band-Aid on an open wound.''

To give peace the best chance of taking hold, peace, the Sudanese Government must be persuaded to implement its commitment to neutralize and disarm the Janjaweed. The Sudanese can be influenced by what the rest of the world does. Sudan is not an isolated, remote land. It is the largest country in Africa, and has significant economic and political ties to the rest of Africa and the world.

Now is the time for the United States, in concert with other countries, to act on Darfur. This is why Senator SMITH and I have introduced legislation to urge the Sudanese parties to honor their commitment in the peace accord. The bill also helps to address the unmet humanitarian needs in Darfur.

At its core, the legislation is intended to encourage greater international pressure on the Government of Sudan to fulfill its obligations in the peace agreement and to allow U.N. peacekeepers into Darfur.

In preparing this legislation, we have worked closely with the NGO community of experts. Groups such as the International Crisis Group, Refugees International, Save Darfur Coalition, the Hebrew International Aid Society, the American Jewish Committee, the American Jewish World Service, and Physicians for Human Rights have endorsed it. I will ask that the letters of endorsements that I have submitted be printed in the RECORD.

The legislation assigns to the Presidential envoy for Sudan the responsibility for supporting the Darfur peace process and, together with the international community, to press the Sudanese parties to implement the agreed-upon ceasefire and disarm the Janjaweed militia.

It calls on the Government of Sudan to immediately allow a U.N. peacekeeping force to enter Darfur and to implement the Darfur Peace Agreement.

It calls on NATO to enforce the no-fly zone over Darfur, if requested by the U.N., and to provide airlift, and logistical and intelligence support to the peacekeepers.

It calls on the international community to act promptly to meet the outstanding humanitarian assistance

needs. We must do our part too. The legislation authorizes $150 million in additional funds for each of the next 5 fiscal years to meet these needs.

Under the legislation, the President will report on whether the Sudanese Government is implementing the peace agreement and has agreed to allow a U.N. peacekeeping mission to enter Darfur. If so, then the Presidential special envoy for Sudan will be requested to develop recommendations to advance the peace process. If the Sudanese Government refuses, then the President will impose sanctions targeted on the leaders of Sudan, urge the international community to do the same, and continue to oppose normalization of its relations with Sudan.

In addition, the bill requires reports from the Commerce Department identifying companies investing $5 million or more in Sudan and a listing of the assets of Sudanese leaders in the United States and elsewhere.

With so much other violence erupting in the world, we must not ignore the crisis in Darfur. Without international action, the genocide will go on. The Sudanese Government will balk or move slowly on disarming the Janjaweed and bringing an end to the violence. Experts estimate that since the conflict in Darfur began in 2004, up to 300,000 people have been killed, and an estimated 1.9 million have been displaced. Every day that we fail to act, those shameful numbers will increase.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the letters to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL CRISIS GROUP,
Washington, DC, August 1, 2006.

Hon. EDWARD KENNEDY,
Russell Senate Building,
Washington DC.

DEAR SENATOR KENNEDY: The International Crisis Group strongly supports the Peace in Darfur Act of 2006, which you are co-sponsoring with Senator Smith.

For the past 2 years, Crisis Group has advocated for tough legislation to address the ongoing atrocities in Darfur, Sudan. Last year, we endorsed the Darfur Accountability Act (HR 1424) and the Darfur Peace and Accountability Act (HR 3127). The Peace in Darfur Act complements previous legislation by calling explicitly for the U.S. to do the following: name a special envoy and lead multilateral efforts; increase pressure on the government of Sudan to allow the deployment of a robust UN peace support mission under Chapter VII of the UN Charter; and encourage non-signatories to sign the Darfur Peace Agreement by addressing its inadequacies.

Congressional action has been crucial in providing life-saving humanitarian assistance to millions of conflict-affected civilians in Darfur and in supporting African peacekeepers, but the situation remains critical. Concerted pressure on the government of Sudan, including U.S. support for the work of the International Criminal Court, is vital to hold perpetrators of atrocities accountable and to ensure that UN forces are deployed to protect civilians.

Yours sincerely,

MARK L. SCHNEIDER,
Senior Vice President.

REFUGEES INTERNATIONAL,
Washington, DC, August 1, 2006.

Hon. EDWARD KENNEDY,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: I am writing in support of the Peace in Darfur Act of 2006, which you and Sen. Smith are co-sponsoring. This important piece of legislation keeps the pressure on the government of Sudan and other parties to honor and implement the Darfur Peace Agreement. It recognizes the need to support the African Union force (AM IS) while moving toward a UN force in Darfur, and it calls for the continuation of necessary humanitarian aid.

Last week I returned from Darfur, where death, displacement and suffering are continuing, despite the signing of the Darfur Peace Agreement on May 5th. Based on talks with internally displaced people, rebel leaders, Sudanese government officials, civil society leaders, diplomats and UN officials, it is clear to me that the U.S. must keep the pressure on the government of Sudan to disarm the Janjaweed militia and work for peace. The appointment of a presidential envoy will give the U.S. more leverage and focus in its efforts to promote peace in Darfur.

Please ask your office to contact me if I can be of further assistance in supporting the Peace in Darfur Act of 2006.

Sincerely,

KENNETH H. BACON,

PRESIDENT.
HEBREW IMMIGRANT AID SOCIETY,
New York, NY, July 28, 2006.

Hon. GORDON SMITH,
Senate Russell Office Building,
Washington, DC.

Hon. EDWARD M. KENNEDY,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR SMITH AND SENATOR KENNEDY: I am writing on behalf of the Hebrew Immigrant Aid Society (HIAS) to express our strong support for the ''Peace in Darfur Act of 2006.''

For over 125 years, HIAS has helped millions of people fleeing persecution and poverty through rescue, resettlement and reunion. The Jewish tradition's emphasis on refugee protection and our community's experience with the trauma of genocide and refugee flight make what's happening in Darfur an issue of primary concern for the Jewish community. We therefore applaud this bill for taking concrete steps to alleviate the inconceivable suffering and hardship that so many innocent Sudanese have endured in the past three years.

Specifically, we are pleased that this bill authorizes $150 million in additional funding to help meet the unmet humanitarian needs in Darfur. With an office in eastern Chad and programs in three refugee camps, HIAS has seen first-hand the dire consequences when the basic necessities of life, including food, water, and health services, are not met. In June 2005, HIAS launched the Initiative for Sudanese Refugees in Chad, which is intended to strengthen the refugees' psychological and social conditions and to convey skills needed to survive and function in the aftermath of extreme violence. Re-acquisition of these basic skills is crucial to break the chain of dependence and suffering caused by severe psychological trauma. By allocating additional funding to provide such basic necessities as food and water, this bill will help remove yet another hurdle to the Darfuri refugees' ability to support themselves and regain control over their lives and well-being.

The Jewish community, knowing all too well what results when genocide is met with silence and inaction, has aggressively denounced the genocide in Darfur and called on the U.S. Government to do more in response. By requiring the Administration to take several important actions, including appointing a Special Envoy for Sudan, the ''Peace in Darfur Act of 2006'' is a significant and vital bill that should be supported by all Members of Congress. To us, ''never again'' is more than just a quote—it is a mandate.

Sincerely,

GIDEON ARONOFF,
CEO and President.

THE AMERICAN JEWISH COMMITTEE,
Washington, DC, August 2, 2006.

DEAR SENATOR:

''First they came first for the Communists, and I did not speak out because I was not a Communist. Then they came for the Socialists, and I did not speak out, because I was not a Socialist; Then they came for the trade unionists, and I did not speak out because I was not a trade unionist. Then they came for the Jews, and I did not speak out because I was not a Jew. Then they came for me, and there was no one left to speak out for me.''

In 1945 Lutheran Pastor Martin Niemoller's voice echoed around the globe as the world grieved over millions of lives lost at the hands of genocide. Sixty years later, America grieves as millions of innocent victims are being displaced, raped, tortured, and murdered in the Darfur region of Sudan.

Pressure is mounting for the Sudanese government to end its genocide. Over the past two years, Congress has allocated more than $250 million to expand and strengthen the role of the African Union Mission in Darfur and to provide additional humanitarian disaster relief throughout the region. As the nation's oldest human relations organization, the American Jewish Committee applauds Congress' action in approving these funds, but we believe that more must be done.

The fragile peace agreement reached in May now seems shattered as fighting continues to rage throughout the region. To halt the killing and displacement, civilians must be protected, the peace agreement must be implemented, and a secure environment must be established for the delivery of humanitarian aid. As atrocities, crimes against humanity and genocidal acts continue throughout the region, we urge you to take further action toward protecting besieged Sudanese civilians by supporting the Peace in Darfur Act.

The Peace in Darfur Act, introduced by Senators Gordon Smith and Edward Kennedy, directs the President to appoint a new special envoy to Sudan. The Special Envoy, in collaboration with international partners, would be best positioned to advance the Darfur peace process. The bill also calls on the government of Sudan to allow a UN peacekeeping force to enter Darfur; NATO to provide humanitarian, logistical, and personnel support to the UN; NATO to enforce the no-fly zone over Darfur; and the international community to not only support the African Union Mission (AMIS) in Sudan, but also to provide humanitarian assistance. The bill also authorizes an additional $150 million in humanitarian aid for Fiscal Years 2008–2012. Further, the bill mandates a Presidential report on the situation in Darfur that will cast new light on the Sudanese government's actions and provide a basis to impose targeted sanctions if necessary.

On behalf of a community that has suffered persecution and even genocide all too often

in our history, we urge you to support this crucial piece of legislation. The time to act is now. History has demonstrated the price of standing idly by in the face of such horrors.

Respectfully,

RICHARD T. FOLTIN,
Legislative Director and Counsel.

PHYSICIANS FOR HUMAN RIGHTS,
Washington, DC, August 2, 2006.

Office of Senator Edward Kennedy.

I wanted to let you know through this e-mail that Physicians for Human Rights supports the Kennedy/Smith Darfur legislation. You may use our name in list of organizations supporting the bill.

Thank you,

Best regards,

SMITA BARUAH,
Senior Manager for Government Affairs.

SAVE DAFUR COALITION,
Washington, DC, August 2, 2006.

Office of Senator Edward Kennedy.

Please include the Save Darfur Coalition in your list of organizations supporting this bill.

Thanks,

ALEX MEIXNER,
Communications and Legislative Coordinator.

AMERICAN JEWISH WORLD SERVICE,
Washington, DC, August 1, 2006.

Office of Senator Edward Kennedy.

American Jewish World Service can endorse the legislation.

Thanks,

STEFANIE OSTFELD.

By Mrs. FEINSTEIN:

S. 3802. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the county organized health insuring organizations authorized to enroll Medicaid beneficiaries; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, this bill will allow two California counties, Ventura and Merced, to provide health care to Medi-Cal beneficiaries through the model they have determined best meets their communities' needs.

This legislation allows Merced and Ventura to establish community operated health systems, COHS, and raises the percentage of Medi-Cal beneficiaries who are enrolled in these programs from 16 percent to 18 percent.

I urge my colleagues to support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF AUTHORIZED COUNTY MEDICAID ORGANIZED HEALTH INSURING ORGANIZATIONS.

(a) IN GENERAL.—Section 9517(c)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1396b note), as added by section 4734 of the Omnibus Budget Reconciliation Act of 1990 and as amended by section 704 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, is amended—

(1) in subparagraph (A), by inserting '', in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Ventura county, and in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Merced county'' after ''described in subparagraph (B)''; and

(2) in subparagraph (C), by striking ''14 percent'' and inserting ''16 percent''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

By Mr. AKAKA:

S. 3804. A bill to prohibit commercial air tour operations over Kalaupapa National Historical Park, Kaloko-Honokohau National Historical Park, Pu'uhonua o Honaunau National Historical Park, and Pu'ukohola Heiau National Historic Site; to the Committee on Commerce, Science, and Transportation.

Mr. AKAKA. Mr President, I rise today to introduce legislation that will prohibit commercial air tour operations over Kalaupapa National Historical Park, Kaloko-Honokohau National Historical Park, Pu'uhonua o Honaunau National Historical Park and Pu'ukohola Heiau National Historic Site.

When Congress first established the Hawaii Volcanoes National Park in 1916, the intent was to preserve the integrity and peace of the park's nearly 400 square miles of volcanoes, rivers, forests, wildlife and sacred sites. In the last few decades, however, the growth of the air tourism industry has considerably interrupted the tranquility of Hawaii's National Parks. Air tourism has had an adverse impact on the ability of Native Hawaiians to practice peaceful protocols of sacred sites. The sound from aircraft activity can significantly impinge on the solemnity of sacred sites and ceremonies.

Sacred sites, including the airspace of the designated locales, are an important resource for the Hawaiian people and we must do what is necessary to ensure that the value of these sites is not diminished. By prohibiting air tourism over these areas, the Hawaiian Sacred Sites Noise Reduction Act affords Natives Hawaiians, residents and visitors to our beautiful state the peace and tranquility to enjoy these sacred sites. I urge my colleagues to support this important piece of legislation.

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mrs. HUTCHISON, and Mr. KERRY):

S. 3806. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain improvements to retail space; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce a bill that will provide relief and equity to our Nation's 1.5 million retail establishments, most of which have less than five employees. This legislation is one in a series of proposals that, if enacted, will reduce both the amount of taxes that small businesses pay, but also the administrative burden that unfairly saddles them as they attempt to comply with our Nation's tax laws.

The proposal reduces from 39 to 15 years the depreciable life of improvements that are made to retail stores that are owned by the retailer. Under current law, only retailers that lease their property are allowed this accelerated depreciation, which means it excludes retailers that also own the property in which they operate. My bill simply seeks to provide equal treatment to all retailers.

Before I talk about the specifics of this particular provision, let me first explain why it is so critical that we begin evaluating how we can best reform the Tax Code, which increasingly keeps our small businesses trapped in a paralyzing state of regulatory limbo. As is well-known small businesses are the foundation of our Nation's economy. According to the Small Business Administration, small businesses represent 99 percent of all employers, employ 51 percent the private-sector workforce, and contribute 51 percent of the private-sector output.

Despite the fact that small businesses are the real job-creators for our Nation's economy, the current tax system imposes large and expensive requirements in terms of satisfying their reporting and recordkeeping obligations. This is a problem Congress must address because small companies are disadvantaged most in terms of the money and time spent in satisfying their tax obligation. Why create distractions for them as they simply seek to comply with the law?

For example, according to the Small Business Administration's Office of Advocacy, small businesses spend an astounding 8 billion hours each year complying with government reports. They also spend more than 80 percent of this time on completing tax forms. What's even more troubling is that companies that employ fewer than 20 employees spend nearly $1,304 per employee in tax compliance costs; an amount that is nearly 67 percent more than larger firms.

These statistics are disturbing for several reasons. First, the fact that small businesses are being required to spend so much money on compliance costs means they have fewer earnings to reinvest into their business. This, in turn, means that they have less money to spend on new equipment or on worker training, which unfortunately has an adverse effect on their overall production and the economy as a whole.

Second, the fact that small business owners are required to make such a sizeable investment of their time into completing paperwork means they have less time to spend on doing what they do best—running their business and creating jobs.

Let me be clear that I am in no way suggesting that small business owners are unique in having to pay income taxes, and I am certainly not expecting them to receive a free pass. What I am

asking for, though, is a change to make the Tax Code fairer and simpler so that small companies can satisfy this obligation without having to expend the amount of resources that they do currently.

For that reason, the package of proposals that I have introduced will provide not only targeted, affordable tax relief to small business owners but also simpler rules under the Tax Code. By simplifying the Tax Code, small business owners will be able to satisfy their tax obligation in a cheaper, more efficient manner, allowing them to be able to devote more time and resources to their business.

Specifically, the proposal that I am introducing today will simply conform the tax codes to the realities that retailers on Main Street face. Studies conducted by the Treasury Department, Congressional Research Service and private economists have all found that the 39-year depreciation life for buildings is too long and that the 39-year depreciation life for building improvements is even worse. Retailers generally remodel their stores every 5 to 7 years to reflect changes in customer base and compete with newer stores. Moreover, many improvements such as interior partitions, ceiling tiles, restroom accessories, and paint, may only last a few years before requiring replacement.

Mr. President, this legislation is a tremendous opportunity to help small enterprises succeed by providing an incentive for reinvestment. Every Member of this body has small retail constituents in small towns who may be in buildings that they have owned for generations and are struggling to compete. I urge my colleagues to join me in supporting this vital legislation as we work with the President to transform such a critical investment incentive into law. Finally, I would like to thank Senators LINCOLN, HUTCHISON, and KERRY for joining me as cosponsors to this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) 15-YEAR RECOVERY PERIOD.—Subparagraph (E) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property.''.

(b) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Subsection (e) of section 168 of such Code is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the trade or business of selling tangible personal property or services to the general public; and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator, or

''(iii) the internal structural framework of the building.''.

(c) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Paragraph (3) of section 168(b) of such Code is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(d) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

''(E)(ix) ..... 39''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified retail improvement property placed in service after the date of the enactment of this Act.

Mr. KERRY. Mr. President, along Main Street, in a countless number of towns, many small businesses are placed at a competitive disadvantage by our tax laws. Business owners need to remodel their store every 5 to 7 years. Consumers' tastes and needs change, and to stay competitive, a store needs to reflect those changes. If a store is owned, the owner is required to depreciate the renovation costs over 39 years, but a store that has leased space in the strip-mall across town, depreciates renovation costs over a 15-year period. The result: a Main Street store owner pays twice as much to renovate as their counterpart who leases.

Today, I am introducing legislation along with Senator SNOWE that will even the playing field for businesses that own the real estate where their business is located. We want parity between the business owners who own and those who lease their property.

The Treasury Department, the Congressional Research Service, and private economists have found that the depreciation life for renovations is far too long. These tax rules generate high tax costs, laying the burden on small town, rural retailers who are more likely to own their property than retailers in urban areas. It is time to address this inequity by reducing the 39-year tax depreciation period to 15 years. I urge my colleagues to support our Main Street stores through support of this legislation.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 3807. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to improve drug safety and oversight, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce a very important bill, one that my colleague Senator KENNEDY and I have been working on for some time.

In 2005, the HELP Committee held two hearings on the issue of drug safety. We received over 50 recommendations from witnesses at those hearings. At that time, Senator KENNEDY and I pledged to develop a comprehensive response to the drug safety issues raised. The Enhancing Drug Safety and Innovation Act is the product of working across party lines, and creates a structured framework for resolving safety concerns.

Under the Enhancing Drug Safety and Innovation Act, FDA would begin to approve drugs and biologics, and new indications for these products, with risk evaluation and mitigation strategies, REMS. The REMS is designed to be an integrated, flexible mechanism to acquire and adapt to new safety information about a drug. The sponsor and FDA will assess and review an approved REMS at least annually for the first 3 years, as well as in applications for a new indication, when the sponsor suggests changes, or when FDA requests a review based on new safety information.

The development of tools to evaluate medical products has not kept pace with discoveries in basic science. New tools are needed to better predict safety and efficacy, which in turn would increase the speed and efficiency of applied biomedical research. The Enhancing Drug Safety and Innovation Act would spur innovation by establishing a new public-private partnership at the FDA to advance the Critical Path Initiative and improve the sciences of developing, manufacturing, and evaluating the safety and effectiveness of drugs, devices, biologics and diagnostics.

The Enhancing Drug Safety and Innovation Act also establishes a central clearinghouse for information about clinical trials and their results to help patients, providers and researchers learn new information and make more informed health care decisions.

Finally, the Enhancing Drug Safety and Innovation Act would make improvements to FDA's process for screening advisory committee members for financial conflicts of interest. FDA relies on its 30 advisory committees to provide independent expert advice, lend credibility to the product review process, and inform consumers of trends in product development. The bill would clarify and streamline FDA's processes for evaluating candidates for service on an advisory committee, and address the key challenge of identifying a sufficient number of people with the necessary expertise and a minimum of potential conflicts of interest to serve on advisory committees.

I want to thank the dozens of stakeholders, including the Food and Drug

Administration, patient and consumer groups, industry associations, individual companies, and scientific experts who have taken the time and effort to give us their comments and input on the bill. Their assistance has been invaluable.

I look forward to working with my colleagues to advance this important piece of legislation.

Mr. KENNEDY. Mr. President, Senator ENZI, chairman of the Senate Health, Education, Labor, and Pensions Committee, and I are introducing the Enhancing Drug Safety and Innovation Act of 2006. The goals of this legislation are to enhance the Food and Drug Administration's authority over the safety of prescription drugs after they are approved; to encourage innovation in medical products; to improve access to clinical trials for patients and ensure that the doctors and patients learn about the results of clinical trials involving the drugs they prescribe and use; and to improve the screening of members of FDA's scientific advisory committees to avoid conflicts of interest.

The withdrawal of the drug Vioxx from the market nearly 2 years ago showed us once again that all prescription drugs have risks, many of which we may not know about when a drug is approved or even for years after approval. That is why we need a more effective system to identify and assess the serious risks of drugs, inform health care providers and patients about such risks, and manage or minimize these risks as soon as they are detected.

Our bill will require every drug to have a risk evaluation and mitigation strategy, or REMS, when it is approved. For many drugs, the REMS will include only the drug labeling, reports of adverse events, a justification for why only such reporting is needed, and a timetable for assessing how the REMS is working.

The FDA will be able to include additional requirements for a drug that poses serious risks, such as by requiring the drug to be dispensed to patients with labeling that patients can understand, that the drug company have a plan to inform health care providers about how to use the drug safely, or that a drug should not be advertised directly to consumers for up to 2 years after approval. If a serious safety signal needs to be understood, FDA can require further studies or even clinical trials after the drug is approved. Enhanced data-collection and data-mining techniques will help identify risk signals earlier and more thoroughly.

For a drug with the most serious side effects, FDA will be able to require that its REMS include the restrictions on distribution and use needed to assure its safe use.

The FDA will be able to impose any of these requirements at the time a drug is approved, and the agency can also modify the labeling or otherwise alter a drug's REMS after the approval. The drug's manufacturer will propose the REMS, or modifications to it, and the FDA and the company will try to work out an adequate REMS. If the agency and the company cannot agree, the agency's Drug Safety Oversight Board can review the dispute and recommend a resolution to senior FDA officials, who will make the final decision.

Civil monetary penalties are added to FDA's traditional enforcement tools to ensure compliance. Drug user fees will be used to review and implement the program.

The bill formalizes and makes mandatory what is now only informal and voluntary. Our intent is not to change standards for approving drugs but to ensure that the FDA has the ability to identify, assess, and manage risks as they become known. Better risk management will mean that drugs with special benefits for some patients will remain available, despite their serious risks for other patients, because FDA can better identify the risks and minimize them.

The bill helps to improve drug safety in other ways as well. The Reagan-Udall Institute for Applied Biomedical Research will be a new public-private partnership at the FDA to advance the agency's Critical Path Initiative, which is intended to improve the science of developing, manufacturing, and evaluating the safety and effectiveness of drugs, biologics, medical devices, and diagnostics.

The institute will be supported by Federal funds and by contributions from the pharmaceutical and device industries. Philanthropic organizations will be able to supplement Federal support. The institute will have a board of directors and an executive director, and will report to Congress annually on its operations.

The bill will also expand the public database at NIH to encourage more patients to enroll in clinical trials of drugs. This database would build on the current systems and would include late phase II, phase III, and all phase IV clinical trials for all drugs.

A second, publicly available database would include the results of phase III and phase IV clinical trials of drugs, with the possibility that late phase II trials would be added later. Posting of results could be delayed for up to 2 years, pending the approval of the drug or the publication of trial results in a peer-reviewed journal. The public needs to know about the results of clinical trials on drugs. Tragically, such information was not adequately available for the clinical studies of antidepressants in children.

Posting information in the clinical trials registry and the clinical trials results database will be requirements for Federal research funding and for drug review and approval by the FDA. Both the FDA and the Inspector General Office of the Department of Health and Human Services would review the content of submissions to the results database to ensure they are truthful and nonpromotional. These Federal requirements would preempt State requirements for clinical trial databases.

Finally, the bill will improve FDA's process for screening advisory committee members for financial conflicts of interest. The agency relies on its advisory committees to provide independent, expert, nonbinding recommendations on significant issues. Ideally, committee members should be free of any financial ties to the companies affected by an issue before a committee. But at times, there may be no individual without financial ties to such companies—for example, when the issue involves a rare disease or a cutting edge medical technology. In these cases, the FDA must be able to grant a waiver to allow an individual with essential expertise to serve on the committee. The bill will require the agency to seek qualified experts with minimal conflicts, clarify how it makes waiver decisions, and disclose those decisions at least 15 days before a committee meeting.

Our bill is a comprehensive response to drug safety and other important issues involving prescription drugs and other medical technologies. I commend Chairman ENZI and his dedicated staff—especially Amy Muhlberg—for working closely with us on this proposal, and I urge our Senate colleagues to support it.

By Mrs. FEINSTEIN:

S. 3809. A bill for the relief of Jacqueline W. Coats; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Jacqueline Coats, a 26–year-old widow currently living in San Francisco.

Mrs. Coats came to the U.S. in 2001 from Kenya on a student visa to study mass communications at San Jose State University. Her visa status lapsed in 2003, and the Department of Homeland Security began deportation proceedings against her.

Mrs. Coats married Marlin Coats on April 17, 2006, after dating for several years. The couple was happily married and planning to start a family when, on May 13, Mr. Coats tragically died in a heroic attempt to save two young boys from drowning.

The couple had been on a Mother's Day outing at Ocean Beach with some of Mr. Coats's nephews when they heard cries for help. Having worked as a lifeguard in the past, Mr. Coats instinctively dove into the water. The two children were saved with the help of a rescue crew, but Mr. Coats, caught in a riptide, died. Mrs. Coats received a medal honoring her husband.

Four days before Mr. Coats's death, the couple prepared and signed an application for a green card at their attorney's office. Unfortunately the petition was not filed until after his death,

rendering it invalid. Mrs. Coats currently has a hearing before an immigration judge in San Francisco on August 24, but her attorney has informed my staff that she has no relief available to her and will be ordered deported.

Mrs. Coats, devastated by the loss of her husband, is now caught in a battle for her right to stay in America. At a recent news conference with her lawyer, Thip Ark, she explained of her situation, ''I feel like I have nothing to live for. I have nothing to go home to. . . . I've been here 4 years. . . . It would be like starting a new life.''

Ms. Ark explains that Mrs. Coats is extremely close with her late husband's family, with whom she lives in San Leandro, CA. Mrs. Coats has said that her husband's large family has become her own. Ramona Burton of San Francisco, one of Marlin Coats's seven brothers and sisters explains, ''She spent her first American Christmas with us, her first American Thanksgiving. . . . I can't imagine looking around and not seeing her there. She needs to be there.''

The San Francisco and bay area community is rallying strong support for Mrs. Coats. The San Francisco chapters of the NAACP, the San Francisco Board of Supervisors, and the San Francisco Police Department, have all passed resolutions in support of Mrs. Coats's right to remain in the country.

Unfortunately, if this private relief bill is not approved, this young woman, and the Coats family, will face yet another disorienting and heartbreaking tragedy. Mrs. Coats will be deported to Kenya, a country she has not lived in since she was 21. In her time of grieving, she will be forced to leave her home, her job with AC Transit, her new family, and everything she has known for the past 5 years.

I cannot think of a compelling reason why the United States should not allow this young widow to continue the green card process. Had her husband lived, Mrs. Coats would have filed the papers without difficulty. It was because of her husband's selfless and heroic act that Mrs. Coats must now struggle to remain in the country. As one concerned California constituent wrote to me, ''If ever there was a case where common fairness, morality and decency should reign over legal technicalities, this is it. We, as a country, need to reward heroism and good.''

I believe that we can reward the late Mr. Coats for his noble actions by granting his wife citizenship. It is what he intended for her. It can even be argued that a green card for his wife was one of his dying wishes, as the papers were signed just 4 days prior to his death.

For these reasons, I offer this private relief immigration bill and ask my colleagues to support it on behalf of Mrs. Coats.

I also ask for unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR JACQUELINE W. COATS.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jacqueline W. Coats shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jacqueline W. Coats enters the United States before the filing deadline specified in subsection (c), Jacqueline W. Coats shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jacqueline W. Coats, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Jacqueline W. Coats under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jacqueline W. Coats under section 202(e) of that Act.

By Mr. KOHL (for himself and Mr. SCHUMER):

S. 3810. A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with Senator SCHUMER to introduce the Prevent All Cigarette Trafficking, PACT, Act of 2006. As the problem of cigarette trafficking continues to worsen, we must provide law enforcement officials with the tools they need to crack down on cigarette trafficking. The PACT Act closes loopholes in current tobacco trafficking laws, enhances penalties for violations, and provides law enforcement with new tools to combat the innovative new methods being used by cigarette traffickers to distribute their products. Each day we delay passage of this important legislation, terrorists and criminals raise more money, states lose significant amounts of tax revenue, and kids have easy access to tobacco products over the Internet.

The cost to Americans is not merely financial. Tobacco smuggling also poses a significant threat to innocent people around the world. It has developed into a popular, and highly profitable, means of generating revenue for criminal and terrorist organizations. Hezbollah, for example, earned $1.5 million between 1996 and 2000 by engaging in tobacco trafficking in the United States. Al-Qaida and Hamas have also generated significant revenue from the sale of counterfeit cigarettes. That money is often raised right here in the United States, and it is then funneled back to these international terrorist groups. Cutting off financial support to terrorist groups is an integral part of the protecting this country against future attacks. We can no longer continue to let terrorist organizations exploit weaknesses in our tobacco laws to generate significant amounts of money. The cost of doing nothing is too great.

This is not a minor problem. Cigarette smuggling is a multibillion dollar a year phenomenon, and it is getting worse. In 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives, BATFE, had six active tobacco smuggling investigations. In 2005, the that number swelled to 452.

The number of cases alone, however, does not sufficiently put this problem into perspective. The amount of money involved is truly astonishing. Cigarette trafficking, including the illegal sale of tobacco products over the Internet, costs States billions of dollars in lost tax revenue each year. It is estimated that Federal tax losses to Internet cigarette sales will reach $1.4 billion this year. As lost tobacco tax revenue lines the pockets of criminals and terrorist groups, states are being forced to raise college tuition and restrict access to other public programs. Tobacco smuggling may provide some with cheap access to cigarettes, but those cheap cigarettes are coming at a significant cost to the rest of us.

According to the Government Accountability Office, GAO, each year, cigarette trafficking investigations are growing more and more complex, and take longer to resolve. More people are selling cigarettes illegally, and they are getting better at it. As these cases get tougher to solve, we owe it to law enforcement officials to do our part to lend a helping hand. The PACT Act enhances BATFE's authority to enter premises to investigate and enforce cigarette trafficking laws, and increasing penalties for violations. Unless these existing laws are strengthened, traffickers will continue to operate with near impunity.

Just as important, though, we must provide law enforcement with new enforcement tools tools that enable them to combat the cigarette smugglers of the 21st century. The Internet represents one of those new obstacles to enforcement. Illegal tobacco vendors around the world evade detection by conducting transactions over the Internet, and then employing the services of common carriers and the U.S. Postal Service to deliver their illegal products around the country. Just a few years

ago, there were less than 100 vendors selling cigarettes online. Today, approximately 500 vendors sell illegal tobacco products over the Internet.

Without new and innovative enforcement methods, law enforcement will not be able to effectively address the growing challenges facing them today. The PACT Act sets out to do just that by cutting off the delivery. A significant part of this problem involves the shipment of contraband cigarettes through the United States Postal Service, USPS. This bill would cut off access to the USPS by making tobacco products non-mailable. We would treat cigarettes just like we treat alcohol, making it illegal to ship them through the US mails and cutting off a large portion of the delivery system.

It also employs a novel approach, one being used in some of our States today, to combat illegal sales of tobacco over the Internet. Specifically, it will allow the Attorney General, in collaboration with State and local law enforcement, to create a list of companies that are illegally selling tobacco products. That list will then be distributed to legitimate businesses whose services are indispensable to illegal internet vendors—common carriers. Once a common carrier knows which customers are breaking the law, this bill will ensure that they take appropriate action to prevent their companies from being exploited by terrorists and other criminals.

It is important to point out that this bill has been carefully negotiated with the common carriers, including UPS, to ensure that it does not place any unreasonable burdens on these businesses. Many changes were made to the bill that was introduced in the last Congress to ensure that the legislation was written to conform to the technological capabilities of these companies. In light of these changes, there is no question that private carriers will be able to fully comply with this bill without interrupting their existing delivery practices and procedures.

In addition, the legislation makes clear that we are not asking for perfection. For example, carriers will not be held liable for the actions of their employees if they have effective policies and procedures in place to ensure compliance. The key word here is ''effective.'' These policies must be much more than mere words. We are not asking common carriers to ensure that every single pack of cigarettes is stopped before it moves through their delivery system, but we do expect a vigorous effort to ensure that they and their employees do the very best they can to stop doing business with people they know to be using their services to violate State and Federal laws. That is not too much to ask.

In addition to these important law enforcement needs, it is important to mention another aspect of this legislation that is equally important. One of the primary ways children get access to cigarettes today is on the internet and through the mails. The PACT Act now contains a strong age verification section that will ensure that online vendors are not selling cigarettes to our children. This provision would prohibit the sale of tobacco products to children, and it would also require sellers to use a method of shipment that requires a signature and photo ID check upon delivery. Most States already have similar laws on the books, and this would simply make sure that we have a national standard to ensure that the Internet is not being used to evade similar ID checks we require at our grocery and convenience stores.

The recognition that this is a significant problem, along with the commonsense approach taken in the PACT Act to combat it, has brought together a coalition of strange bedfellows. The legislation has not just garnered the support of the law enforcement community, including the National Association of Attorneys General, and public health advocates, such as the Campaign for Tobacco Free Kids. It also has the strong support of tobacco companies like Altria. These groups, who sometimes find themselves on opposite sides of these issues, all agree that this is an issue begging to be addressed. They all recognize the urgent need to provide our law enforcement officials with the tools they need to combat a very serious threat to our security and protect public health.

I urge my colleagues to support this important legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''Prevent All Cigarette Trafficking Act of 2006'' or ''PACT Act''.

(b) FINDINGS.—Congress finds that—

(1) the sale of illegal cigarettes and smokeless tobacco products significantly reduces Federal, State, and local government revenues, with Internet sales alone accounting for billions of dollars of lost Federal, State, and local tobacco tax revenue each year;

(2) Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps;

(3) terrorist involvement in illicit cigarette trafficking will continue to grow because of the large profits such organizations can earn;

(4) the sale of illegal cigarettes and smokeless tobacco over the Internet, and through mail, fax, or phone orders, make it cheaper and easier for children to obtain tobacco products;

(5) the majority of Internet and other remote sales of cigarettes and smokeless tobacco are being made without adequate precautions to protect against sales to children, without the payment of applicable taxes, and without complying with the nominal registration and reporting requirements in existing Federal law;

(6) unfair competition from illegal sales of cigarettes and smokeless tobacco is taking billions of dollars of sales away from law-abiding retailers throughout the United States;

(7) with rising State and local tobacco tax rates, the incentives for the illegal sale of cigarettes and smokeless tobacco have increased;

(8) the number of active tobacco investigations being conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives rose to 452 in 2005;

(9) the number of Internet vendors in the United States and in foreign countries that sell cigarettes and smokeless tobacco to buyers in the United States has increased from only about 40 in 2000 to more than 500 in 2005; and

(10) the intrastate sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on interstate commerce.

(c) PURPOSES.—It is the purpose of this Act to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) DEFINITIONS.—The Act of October 19, 1949 (15 U.S.C. 375 et seq.; commonly referred to as the ''Jenkins Act'') (referred to in this Act as the ''Jenkins Act''), is amended by striking the first section and inserting the following:

''SECTION 1. DEFINITIONS.

''As used in this Act, the following definitions apply:

''(1) ATTORNEY GENERAL.—The term 'attorney general', with respect to a State, means the attorney general or other chief law enforcement officer of the State, or the designee of that officer.

''(2) CIGARETTE.—

''(A) IN GENERAL.—For purposes of this Act, the term 'cigarette'—

''(i) shall have the same meaning given that term in section 2341 of title 18, United States Code; and

''(ii) shall include 'roll-your-own tobacco' (as that term is defined in section 5702 of title 26, United States Code).

''(B) EXCEPTION.—For purposes of this Act, the term 'cigarette' does not include a 'cigar,' as that term is defined in section 5702 of title 26, United States Code.

''(3) COMMON CARRIER.—The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

''(4) CONSUMER.—The term 'consumer' means any person that purchases cigarettes or smokeless tobacco, but does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

''(5) DELIVERY SALE.—The term 'delivery sale' means any sale of cigarettes or smokeless tobacco to a consumer if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

''(B) the cigarettes or smokeless tobacco are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

''(6) DELIVERY SELLER.—The term 'delivery seller' means a person who makes a delivery sale.

''(7) INDIAN COUNTRY.—The term 'Indian country' has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve.

''(8) INDIAN TRIBE.—The term 'Indian tribe', 'tribe', or 'tribal' refers to an Indian tribes as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

''(9) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

''(10) PERSON.—The term 'person' means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such government, or joint stock company.

''(11) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

''(12) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

''(13) TOBACCO TAX ADMINISTRATOR.—The term 'tobacco tax administrator' means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

''(14) TRANSFERS FOR PROFIT.—The term 'transfers for profit' means any transfer for profit or other disposition for profit, including any transfer or disposition by an agent to his principal in connection with which the agent receives anything of value.

''(15) USE.—The term 'use', in addition to its ordinary meaning, means the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.''.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended—

(1) by striking ''cigarettes'' each place it appears and inserting ''cigarettes or smokeless tobacco'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''CONTENTS.—''after ''(a)''

(ii) by striking ''or transfers'' and inserting '', transfers, or ships'';

(iii) by inserting '', locality, or Indian country of an Indian tribe'' after ''a State'';

(iv) by striking ''to other than a distributor licensed by or located in such State,''; and

(v) by striking ''or transfer and shipment'' and inserting '', transfer, or shipment'';

(B) in paragraph (1)—

(i) by striking ''with the tobacco tax administrator of the State'' and inserting ''with the Attorney General of the United States and with the tobacco tax administrators of the State and place''; and

(ii) by striking ''; and'' and inserting the following: '', as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of such person;'';

(C) in paragraph (2), by striking ''and the quantity thereof.'' and inserting ''the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and''; and

(D) by adding at the end the following:

''(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of such memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian tribes operating within the borders of the State that apply their own local or tribal taxes on cigarettes or smokeless tobacco.'';

(3) in subsection (b)—

(A) by inserting ''PRESUMPTIVE EVIDENCE.—'' after ''(b)'';

(B) by striking ''(1) that'' and inserting ''that''; and

(C) by striking '', and (2)'' and all that follows and inserting a period; and

(4) by adding at the end the following:

''(c) USE OF INFORMATION.—A tobacco tax administrator or chief law enforcement officer who receives a memorandum or invoice under paragraph (2) or (3) of subsection (a) shall use such memorandum or invoice solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and shall keep confidential any personal information in such memorandum or invoice not otherwise required for such purposes.''.

(c) REQUIREMENTS FOR DELIVERY SALES.—The Jenkins Act is amended by inserting after section 2 the following:

''SEC. 2A. DELIVERY SALES.

''(a) IN GENERAL.—With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

''(1) the shipping requirements set forth in subsection (b);

''(2) the recordkeeping requirements set forth in subsection (c);

''(3) all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if such delivery sales occurred entirely within the specific State and place, including laws imposing—

''(A) excise taxes;

''(B) licensing and tax-stamping requirements;

''(C) restrictions on sales to minors; and

''(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

''(4) the tax collection requirements set forth in subsection (d).

''(b) SHIPPING AND PACKAGING.—

''(1) REQUIRED STATEMENT.—For any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows: 'CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS'.

''(2) FAILURE TO LABEL.—Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as nondeliverable matter by a common carrier, other delivery service, or the United States Postal Service if the common carrier, other delivery service, or the United States Postal Service, as the case may be, knows or should know the package contains cigarettes or smokeless tobacco. Nothing in this paragraph shall require the common carrier, other delivery service, or the United States Postal Service to open any package to determine its contents.

''(3) WEIGHT RESTRICTION.—A delivery seller shall not sell, offer for sale, deliver, or cause to be delivered in any single sale or single delivery any cigarettes or smokeless tobacco weighing more than 10 pounds.

''(4) AGE VERIFICATION.—Notwithstanding any other provision of law, a delivery seller who mails or ships cigarettes or smokeless tobacco in connection with a delivery sale—

''(A) shall not sell, deliver, or cause to be delivered any tobacco products to a person under the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery; and

''(B) shall use a method of mailing or shipping that requires—

''(i) the purchaser placing the delivery sale order, or an adult who is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery, to sign to accept delivery of the shipping container at the delivery address; and

''(ii) the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery.

''(c) RECORDS.—

''(1) IN GENERAL.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section 2(a)(2), organized by the State, and within such State, by the city or town and by zip code, into which such delivery sale is so made.

''(2) RECORD RETENTION.—Records of a delivery sale shall be kept as described in paragraph (1) in the year in which the delivery sale is made and for the next 4 years.

''(3) ACCESS FOR OFFICIALS.—Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian tribes that apply their own local or tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of such local governments and Indian tribes, and to the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

''(d) DELIVERY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no delivery seller may sell or deliver to any consumer, or tender to any common carrier or other delivery service,

any cigarettes or smokeless tobacco pursuant to a delivery sale unless, in advance of the sale, delivery, or tender—

''(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

''(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government; and

''(C) any required stamps or other indicia that such excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

''(2) EXCEPTION.—Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

''(e) LIST OF UNREGISTERED OR NONCOMPLIANT DELIVERY SELLERS.—

''(1) IN GENERAL.—

''(A) INITIAL LIST.—Not later than 90 days after this subsection goes into effect under section 10 of the Prevent All Cigarette Trafficking Act of 2006, the Attorney General of the United States shall compile a list of delivery sellers of cigarettes or smokeless tobacco that have not registered with the Attorney General, pursuant to section 2(a) or that are otherwise not in compliance with this Act, and—

''(i) distribute the list to—

''(I) the attorney general and tax administrator of every State;

''(II) common carriers and other persons that deliver small packages to consumers in interstate commerce, including the United States Postal Service; and

''(III) at the discretion of the Attorney General of the United States, to any other persons; and

''(ii) publicize and make the list available to any other person engaged in the business of interstate deliveries or who delivers cigarettes or smokeless tobacco in or into any State.

''(B) LIST CONTENTS.—To the extent known, the Attorney General of the United States shall include, for each delivery seller on the list described in subparagraph (A)—

''(i) all names the delivery seller uses in the transaction of its business or on packages delivered to customers;

''(ii) all addresses from which the delivery seller does business or ships cigarettes or smokeless tobacco;

''(iii) the website addresses, primary e-mail address, and phone number of the delivery seller; and

''(iv) any other information that the Attorney General determines would facilitate compliance with this subsection by recipients of the list.

''(C) UPDATING.—The Attorney General of the United States shall update and distribute the list at least once every 4 months, and may distribute the list and any updates by regular mail, electronic mail, or any other reasonable means, or by providing recipients with access to the list through a nonpublic website that the Attorney General of the United States regularly updates.

''(D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General of the United States shall include in the list under subparagraph (A) any noncomplying delivery sellers identified by any State, local, or tribal government under paragraph (5), and shall distribute the list to the attorney general or chief law enforcement official and the tax administrator of any government submitting any such information and to any common carriers or other persons who deliver small packages to consumers identified by any government pursuant to paragraph (5).

''(E) CONFIDENTIALITY.—The list distributed pursuant to subparagraph (A) shall be confidential, and any person receiving the list shall maintain the confidentiality of the list but may deliver the list, for enforcement purposes, to any government official or to any common carrier or other person that delivers tobacco products or small packages to consumers. Nothing in this section shall prohibit a common carrier, the United States Postal Service, or any other person receiving the list from discussing with the listed delivery sellers the delivery sellers' inclusion on the list and the resulting effects on any services requested by such listed delivery seller.

''(2) PROHIBITION ON DELIVERY.—

''(A) IN GENERAL.—Commencing on the date that is 60 days after the date of the initial distribution or availability of the list under paragraph (1)(A), no person who receives the list under paragraph (1), and no person who delivers cigarettes or smokeless tobacco to consumers, shall knowingly complete, cause to be completed, or complete its portion of a delivery of any package for any person whose name and address are on the list, unless—

''(i) the person making the delivery knows or believes in good faith that the item does not include cigarettes or smokeless tobacco;

''(ii) the delivery is made to a person lawfully engaged in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

''(iii) the package being delivered weighs more than 100 pounds and the person making the delivery does not know or have reasonable cause to believe that the package contains cigarettes or smokeless tobacco.

''(B) IMPLEMENTATION OF UPDATES.—Commencing on the date that is 30 days after the date of the distribution or availability of any updates or corrections to the list under paragraph (1), all recipients and all common carriers or other persons that deliver cigarettes or smokeless tobacco to consumers shall be subject to subparagraph (A) in regard to such corrections or updates.

''(3) SHIPMENTS FROM PERSONS ON LIST.—

''(A) IN GENERAL.—In the event that a common carrier or other delivery service delays or interrupts the delivery of a package it has in its possession because it determines or has reason to believe that the person ordering the delivery is on a list distributed under paragraph (1)—

''(i) the person ordering the delivery shall be obligated to pay—

''(I) the common carrier or other delivery service as if the delivery of the package had been timely completed; and

''(II) if the package is not deliverable, any reasonable additional fee or charge levied by the common carrier or other delivery service to cover its extra costs and inconvenience and to serve as a disincentive against such noncomplying delivery orders; and

''(ii) if the package is determined not to be deliverable, the common carrier or other delivery service shall, in its discretion, either provide the package and its contents to a Federal, State, or local law enforcement agency or destroy the package and its contents.

''(B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any deliveries interrupted pursuant to this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

''(C) CONFIDENTIALITY.—Any person receiving records under subparagraph (B) shall use such records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and the person receiving records under subparagraph (B) shall keep confidential any personal information in such records not otherwise required for such purposes.

''(4) PREEMPTION.—

''(A) IN GENERAL.—No State, local, or tribal government, nor any political authority of two or more State, local, or tribal governments, may enact or enforce any law or regulation relating to delivery sales that restricts deliveries of cigarettes or smokeless tobacco to consumers by common carriers or other delivery services on behalf of delivery sellers by—

''(i) requiring that the common carrier or other delivery service verify the age or identity of the consumer accepting the delivery by requiring the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that such person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

''(ii) requiring that the common carrier or other delivery service obtain a signature from the consumer accepting the delivery;

''(iii) requiring that the common carrier or other delivery service verify that all applicable taxes have been paid;

''(iv) requiring that packages delivered by the common carrier or other delivery service contain any particular labels, notice, or markings; or

''(v) prohibiting common carriers or other delivery services from making deliveries on the basis of whether the delivery seller is or is not identified on any list of delivery sellers maintained and distributed by any entity other than the Federal Government.

Nothing in this paragraph may be construed to preempt or supersede State laws prohibiting the delivery sale, or the shipment or delivery pursuant to a delivery sale, of cigarettes or smokeless tobacco to individual consumers.

''(B) RELATIONSHIP TO OTHER LAWS.—Nothing in this paragraph shall be construed to prohibit, expand, restrict, or otherwise amend or modify—

''(i) section 14501(c)(1) or 41713(b)(4) of title 49, United States Code;

''(ii) any other restrictions in Federal law on the ability of State, local, or tribal governments to regulate common carriers; or

''(iii) any provision of State, local, or tribal law regulating common carriers that falls within the provisions of chapter 49 of the United States Code, sections 14501(c)(2) or 41713(b)(4)(B).

''(5) STATE, LOCAL, AND TRIBAL ADDITIONS.—

''(A) IN GENERAL.—Any State, local, or tribal government shall provide the Attorney General of the United States with—

''(i) all known names, addresses, website addresses, and other primary contact information of any delivery seller that offers for sale or makes sales of cigarettes or smokeless tobacco in or into the State, locality, or tribal land but has failed to register with or make reports to the respective tax administrator, as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

''(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal lands.

''(B) UPDATES.—Any government providing a list to the Attorney General of the United States under subparagraph (A) shall also provide updates and corrections every 4 months until such time as such government notifies the Attorney General of the United States in writing that such government no longer desires to submit such information to supplement the list maintained and distributed by the Attorney General of the United States under paragraph (1).

''(C) REMOVAL AFTER WITHDRAWAL.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General of the United States shall remove from the list under paragraph (1) any persons that are on the list solely because of such government's prior submissions of its list of noncomplying delivery sellers of cigarettes or smokeless tobacco or its subsequent updates and corrections.

''(6) DEADLINE TO INCORPORATE ADDITIONS.—The Attorney General of the United States shall—

''(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (5) in any list or update that is distributed or made available under paragraph (1) on or after the date that is 30 days after the date on which the information is received by the Attorney General of the United States; and

''(B) distribute any such list or update to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by another government, pursuant to paragraph (5).

''(7) NOTICE TO DELIVERY SELLERS.—Not later than 14 days prior to including any delivery seller on the initial list distributed or made available under paragraph (1), or on any subsequent list or update for the first time, the Attorney General of the United States shall make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on such list or update, with that notice including the text of this Act.

''(8) LIMITATIONS.—

''(A) IN GENERAL.—Any common carrier or other person making a delivery subject to this subsection shall not be required or otherwise obligated to—

''(i) determine whether any list distributed or made available under paragraph (1) is complete, accurate, or up-to-date;

''(ii) determine whether a person ordering a delivery is in compliance with this Act; or

''(iii) open or inspect, pursuant to this Act, any package being delivered to determine its contents.

''(B) ALTERNATE NAMES.—Any common carrier or other person making a delivery subject to this subsection shall not be required or otherwise obligated to make any inquiries or otherwise determine whether a person ordering a delivery is a delivery seller on the list under paragraph (1) who is using a different name or address in order to evade the related delivery restrictions, but shall not knowingly deliver any packages to consumers for any such delivery seller who the common carrier or other delivery service knows is a delivery seller who is on the list under paragraph (1) but is using a different name or address to evade the delivery restrictions of paragraph (2).

''(C) PENALTIES.—Any common carrier or person in the business of delivering packages on behalf of other persons shall not be subject to any penalty under section 14101(a) of title 49, United States Code, or any other provision of law for—

''(i) not making any specific delivery, or any deliveries at all, on behalf of any person on the list under paragraph (1);

''(ii) not, as a matter of regular practice and procedure, making any deliveries, or any deliveries in certain States, of any cigarettes or smokeless tobacco for any person or for any person not in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

''(iii) delaying or not making a delivery for any person because of reasonable efforts to comply with this Act.

''(D) OTHER LIMITS.—Section 2 and subsections (a), (b), (c), and (d) of this section shall not be interpreted to impose any responsibilities, requirements, or liability on common carriers.

''(f) PRESUMPTION.—For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.''.

(d) PENALTIES.—The Jenkins Act is amended by striking section 3 and inserting the following:

''SEC. 3. PENALTIES.

''(a) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), whoever violates any provision of this Act shall be guilty of a felony and shall be imprisoned not more than 3 years, fined under title 18, United States Code, or both.

''(2) EXCEPTIONS.—

''(A) GOVERNMENTS.—Paragraph (1) shall not apply to a State, local, or tribal government.

''(B) DELIVERY VIOLATIONS.—A common carrier or independent delivery service, or employee of a common carrier or independent delivery service, shall be subject to criminal penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed intentionally for the purpose of—

''(i) obtaining the business of delivery sellers known to the common carrier or independent delivery service not to be in compliance with this Act; or

''(ii) assisting a delivery seller to violate or otherwise evade compliance with section 2A.

''(b) CIVIL PENALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (3), whoever violates any provision of this Act shall be subject to a civil penalty in an amount not to exceed—

''(A) in the case of a delivery seller, the greater of—

''(i) $5,000 in the case of the first violation, or $10,000 for any other violation; or

''(ii) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of such person during the 1-year period ending on the date of the violation.

''(B) in the case of a common carrier or other delivery service, $2,500 in the case of a first violation, or $5,000 for any violation within 1 year of a prior violation.

''(2) RELATION TO OTHER PENALTIES.—A civil penalty under paragraph (1) for a violation of this Act shall be imposed in addition to any criminal penalty under subsection (a) and any other damages, equitable relief, or injunctive relief awarded by the court, including, but not limited to, the payment of any unpaid taxes to the appropriate Federal, State, local, or tribal governments.

''(3) EXCEPTIONS.—

''(A) DELIVERY VIOLATIONS.—An employee of a common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed intentionally for the purpose of—

''(i) obtaining the business of delivery sellers known to the common carrier or independent delivery service not to be in compliance with this Act; or

''(ii) assisting a delivery seller to violate or otherwise evade compliance with section 2A.

''(B) OTHER LIMITATIONS.—No common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

''(i) the common carrier or independent delivery service has implemented and enforces effective policies and practices for complying with that section; or

''(ii) an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, processes packages, or makes deliveries, takes actions that are outside the scope of employment of the employee in the course of the violation, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).''.

(e) ENFORCEMENT.—The Jenkins Act is amended by striking section 4 and inserting the following:

''SEC. 4. ENFORCEMENT.

''(a) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for such violations.

''(b) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States shall administer and enforce the provisions of this Act.

''(c) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

''(1) IN GENERAL.—

''(A) STANDING.—A State, through its attorney general (or a designee thereof), or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may bring an action in a United States district court to prevent and restrain violations of this Act by any person (or by any person controlling such person) or to obtain any other appropriate relief from any person (or from any person controlling such person) for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

''(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

''(2) PROVISION OF INFORMATION.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of this Act to the Attorney General of the United States or a United States attorney, who shall take appropriate actions to enforce the provisions of this Act.

''(3) USE OF PENALTIES COLLECTED.—

''(A) IN GENERAL.—There is established a separate account in the Treasury known as the 'PACT Anti-Trafficking Fund'. Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the United States Government in enforcing the provisions of this Act shall

be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General of the United States for purposes of enforcing the provisions of this Act and other laws relating to contraband tobacco products.

''(B) ALLOCATION OF FUNDS.—Of the amount available to the Attorney General under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department of Justice that were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

''(4) NONEXCLUSIVITY OF REMEDY.—

''(A) IN GENERAL.—The remedies available under this section and section 3 are in addition to any other remedies available under Federal, State, local, tribal, or other law.

''(B) STATE COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(C) TRIBAL COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

''(D) LOCAL GOVERNMENT ENFORCEMENT.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

''(d) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in a United States district court to prevent and restrain violations of this Act by any person (or by any person controlling such person) other than a State, local, or tribal government.

''(e) NOTICE.—

''(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

''(2) STATE, LOCAL, AND TRIBAL ACTIONS.—It is the sense of Congress that the attorney general of any State, or chief law enforcement officer of any locality or tribe, that commences a civil action under this section should inform the Attorney General of the United States of the action.

''(f) PUBLIC NOTICE.—

''(1) IN GENERAL.—The Attorney General of the United States shall make available to the public, by posting such information on the Internet and by other appropriate means, information regarding all enforcement actions undertaken by the Attorney General or United States attorneys, or reported to the Attorney General, under this section, including information regarding the resolution of such actions and how the Attorney General and the United States attorney have responded to referrals of evidence of violations pursuant to paragraph (2).

''(2) REPORTS TO CONGRESS.—The Attorney General shall submit to Congress each year a report containing the information described in paragraph (1).''.

(f) CONFORMING AND CLERICAL AMENDMENTS.—The section heading for chapter 10A of title 15, United States Code, is amended to read as follows: ''**REMOTE SALES OF CIGARETTES AND SMOKELESS TOBACCO**''.

SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NONMAILABLE MATTER.

Section 1716 of title 18, United States Code, is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following:

''(j) TOBACCO PRODUCTS.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), all cigarettes (as that term is defined in section 1(2) of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the 'Jenkins Act')) and smokeless tobacco (as that term is defined in section 1(12) of that Act), are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this subsection.

''(B) REASONABLE CAUSE TO BELIEVE.—For purposes of this section, notification to the United States Postal Service by the Attorney General, a United States attorney, or a State Attorney General that an individual or entity is primarily engaged in the business of transmitting cigarettes or smokeless tobacco made nonmailable by this section shall constitute reasonable cause to believe that any packages presented to the United States Postal Service by such individual or entity contain nonmailable cigarettes or smokeless tobacco.

''(C) CIGARS.—Subparagraph (A) shall not apply to cigars (as that term is defined in section 5702(a) of the Internal Revenue Code of 1986).

''(D) GEOGRAPHIC EXCEPTION.—Subparagraph (A) shall not apply to mailings within or into any State that is not contiguous with at least 1 other State of the United States. For purposes of this paragraph, 'State' means any of the 50 States or the District of Columbia.

''(2) PACKAGING EXCEPTIONS INAPPLICABLE.—Subsection (b) shall not apply to any tobacco product made nonmailable by this subsection.

''(3) SEIZURE AND FORFEITURE.—Any cigarettes or smokeless tobacco made nonmailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, and any tobacco products so seized and forfeited shall either be destroyed or retained by Government officials for the detection or prosecution of crimes or related investigations and then destroyed.

''(4) ADDITIONAL PENALTIES.—In addition to any other fines and penalties imposed by this chapter for violations of this section, any person violating this subsection shall be subject to an additional penalty in the amount of 10 times the retail value of the nonmailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

''(5) USE OF PENALTIES.—There is established a separate account in the Treasury known as the 'PACT Postal Service Fund'. Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal and civil fines or monetary penalties collected by the United States Government in enforcing the provisions of this subsection shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing the provisions of this subsection.''.

SEC. 4. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.

(a) IN GENERAL.—A Tobacco Product Manufacturer or importer may not sell in, deliver to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in a State that is a party to the Master Settlement Agreement, any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, or any regulations promulgated pursuant to such statute.

(b) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—

(1) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) INITIATION OF ACTION.—A State, through its attorney general, may bring an action in the United States district courts to prevent and restrain violations of subsection (a) by any person (or by any person controlling such person).

(3) ATTORNEY FEES.—In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have willfully and knowingly violated subsection (a).

(4) NONEXCLUSIVITY OF REMEDIES.—The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law. No provision of this Act or any other Federal law shall be held or construed to prohibit or preempt the Master Settlement Agreement, the Model Statute (as defined in the Master Settlement Agreement), any legislation amending or complementary to the Model Statute in effect as of June 1, 2006, or any legislation substantially similar to such existing, amending, or complementary legislation hereinafter enacted.

(5) OTHER ENFORCEMENT ACTIONS.—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States may administer and enforce subsection (a).

(c) DEFINITIONS.—In this section the following definitions apply:

(1) DELIVERY SALE.—The term ''delivery sale'' means any sale of cigarettes or smokeless tobacco to a consumer if—

(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

(2) IMPORTER.—The term ''importer'' means each of the following:

(A) SHIPPING OR CONSIGNING.—Any person in the United States to whom non-tax-paid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(B) MANUFACTURING WAREHOUSES.—Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs-bonded manufacturing warehouse.

(C) UNLAWFUL IMPORTING.—Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

(3) MASTER SETTLEMENT AGREEMENT.—The term ''Master Settlement Agreement'' means the agreement executed November 23, 1998, between the attorneys general of 46

States, the District of Columbia, the Commonwealth of Puerto Rico, and 4 territories of the United States and certain tobacco manufacturers.

(4) MODEL STATUTE; QUALIFYING STATUTE.—The terms ''Model Statute'' and ''Qualifying Statute'' means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

(5) TOBACCO PRODUCT MANUFACTURER.—The term ''Tobacco Product Manufacturer'' has the meaning given that term in section II(uu) of the Master Settlement Agreement.

SEC. 5. UNDERCOVER CRIMINAL INVESTIGATIONS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.

(a) APPROPRIATIONS AVAILABLE.—

(1) IN GENERAL.—Commencing as of the date of the enactment of this Act and without fiscal year limitation, the authorities in section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (title I of Public Law 102–395; 106 Stat. 1838) shall be available to the Bureau of Alcohol, Tobacco, Firearms and Explosives for undercover investigative operations of the Bureau which are necessary for the detection and prosecution of crimes against the United States.

(2) CONFORMING RULE.—For purposes of the exercise by the Bureau of Alcohol, Tobacco, Firearms and Explosives of the authorities referenced in paragraph (1), a reference in section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (title I of Public Law 102–395; 106 Stat. 1838) to the Federal Bureau of Investigation shall be deemed to be a reference to the Bureau of Alcohol, Tobacco, Firearms and Explosives, and a reference to the Director of the Federal Bureau of Investigation shall be deemed to be a reference to the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(b) LIMITATIONS IN APPROPRIATIONS ACTS.—The exercise of the authorities referred to in subsection (a)(1) by the Bureau of Alcohol, Tobacco, Firearms and Explosives shall be subject to the provisions of appropriations Acts.

SEC. 6. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS.

(a) IN GENERAL.—Any officer of the Bureau of Alcohol, Tobacco, Firearms and Explosives may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting—

(1) any records or information required to be maintained by such person under the provisions of law referred to in subsection (d); or

(2) any cigarettes or smokeless tobacco kept or stored by such person at such premises.

(b) COVERED PERSONS.—Subsection (a) applies to any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, within a single month.

(c) RELIEF.—

(1) IN GENERAL.—The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by subsection (a).

(2) VIOLATIONS.—Whoever violates subsection (a) or an order issued pursuant to paragraph (1) shall be subject to a civil penalty in an amount not to exceed $10,000 for each violation.

(d) COVERED PROVISIONS OF LAW.—The provisions of law referred to in this subsection are—

(1) the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act''); (2) chapter 114 of title 18, United States Code; and

(3) this Act.

(e) DELIVERY SALE DEFINED.—In this section, the term ''delivery sale'' has the meaning given that term in 2343(e) of title 18, United States Code, as amended by section 4(d)(4).

SEC. 7. COMPLIANCE WITH TARIFF ACT OF 1930.

(a) INAPPLICABILITY OF EXEMPTIONS FROM REQUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES.—Section 802(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1681a(b)(1)) is amended by adding at the end the following: ''This paragraph shall not apply to any cigarettes sold in connection with a delivery sale (as that term is defined in section 1(6) of the Act of October 19, 1949 (commonly referred to as the 'Jenkins Act')).''.

(b) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—Section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a) is amended by adding at the end the following:

''(d) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—A State, through its attorney general, and an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), through its chief law enforcement officer, shall be entitled to obtain copies of any certification required pursuant to subsection (c) directly—

''(1) upon request to the agency of the United States responsible for collecting such certification; or

''(2) upon request to the importer, manufacturer, or authorized official of such importer or manufacturer.''.

(c) ENFORCEMENT PROVISIONS.—Section 803 of the Tariff Act of 1930 (19 U.S.C. 1681b) is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting ''any State of'' before ''the United States'' the first and second places it appears; and

(ii) by inserting before the period the following: '', to any State in which such tobacco product, cigarette papers, or tube was imported, or to the Indian tribe of any Indian country (as that term is defined in section 1151 of title 18, United States Code) in which such tobacco product, cigarette papers, or tube was imported''; and

(B) in the second sentence, by inserting '', or to any State or Indian tribe,'' after ''the United States''; and

(2) by adding at the end the following:

''(c) ACTIONS BY STATES AND OTHERS.—

''(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in the United States district courts to prevent and restrain violations of this title by any person (or by any person controlling such person), other than a State, local, or tribal government.

''(2) STATE, LOCAL, AND TRIBAL GOVERNMENTS.—A State, through its attorney general, or a local government or tribe through its chief law enforcement officer (or a designee thereof), may bring a civil action under this title to prevent and restrain violations of this title by any person (or by any person controlling such person) or to obtain any other appropriate relief for violations of this title by any person (or from any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

''(3) CONSTRUCTION GENERALLY.—

''(A) IN GENERAL.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under this title or to otherwise restrict, expand, or modify any sovereign immunity of a State, local government, or Indian tribe.

''(B) CONSTRUCTION WITH OTHER RELIEF.—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law.

''(4) CONSTRUCTION WITH FORFEITURE PROVISIONS.—Nothing in this subsection shall be construed to require a State or Indian tribe to first bring an action under to paragraph (1) when pursuing relief under subsection (b).

''(d) CONSTRUCTION WITH OTHER AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of—

''(1) an authorized State official from proceeding in State court, or taking other enforcement actions, on the basis of alleged violation of State or other law; or

''(2) an authorized Indian tribal government official from proceeding in tribal court, or taking other enforcement actions, on the basis of alleged violation of tribal law.''.

(d) INCLUSION OF SMOKELESS TOBACCO.—

(1) IN GENERAL.—Sections 802 and 803(a) of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.) are amended by inserting ''or smokeless tobacco products'' after ''cigarettes'' each place it appears.

(2) CONFORMING AMENDMENTS.—

(A) REQUIREMENTS FOR ENTRY.—Section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a) is amended—

(i) in the heading, by inserting ''**AND SMOKELESS TOBACCO**'' after ''**CIGARETTES**'';

(ii) in subsection (a)—

(I) in paragraph (1), by inserting ''or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively'' after ''section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)'';

(II) in paragraph (2), by inserting ''or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,'' after ''section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)''; and

(III) in paragraph (3), by inserting ''or section 3(d) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(d)), respectively,'' after ''section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))'';

(iii) in subsection (b)—

(I) in the heading of paragraph (1), by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTES''; and

(II) in the heading of paragraphs (2) and (3), by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTES''; and

(iv) in subsection (c)—

(I) in the heading, by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTE'';

(II) in paragraph (1), by inserting ''or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively'' after ''section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)'';

(III) in paragraph (2)(A), ''or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,'' after ''section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)''; and

(IV) in paragraph (2)(B), by inserting ''or section 3(d) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(d)), respectively'' after ''section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))''.

(B) ENFORCEMENT.—Section 803(b) of the Tariff Act of 1930 (19 U.S.C. 1681b(b)) is amended by inserting '', or any smokeless tobacco product,'' after ''or tube'' the first place it appears.

(C) TITLE HEADING.—The heading of title VIII of the Tariff Act of 1930 (19 U.S.C. 1681 et seq.) is amended by inserting ''**AND SMOKELESS TOBACCO**'' after ''**CIGARETTES**''.

SEC. 8. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act is intended nor shall be construed to affect, amend, or modify—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian country (as that term is defined in section 1151 of title 18, United States Code);

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian country;

(3) any limitations under existing Federal law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian tribes or tribal members or in Indian country;

(4) any existing Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any tribe, tribal members, or tribal reservations; and

(5) any existing State or local government authority to bring enforcement actions against persons located in Indian country.

(b) COORDINATION OF LAW ENFORCEMENT.—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Nothing in this Act or the amendments made by this Act is intended, and shall not be construed to, authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) ENFORCEMENT WITHIN INDIAN COUNTRY.—Nothing in this Act or the amendments made by this Act is intended to prohibit, limit, or restrict enforcement by the Attorney General of the United States of the provisions herein within Indian country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application and any other provision of this Act shall be resolved in favor of this section.

SEC. 9. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) BATFE AUTHORITY.—

(1) IN GENERAL.—Sections 6 and 7 shall take effect on the date of enactment of this Act.

(2) DEFINITION.—For purposes of section 7, the definition of delivery sale in section 2343(e)(1) of title 18, United States Code, as amended by section 4(d)(4) of this Act, shall take effect on the date of enactment of this Act.

SEC. 10. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of it to any other person or circumstance shall not be affected thereby.

By Mr. HATCH (for himself, Mr. BINGAMAN, and Mr. BIDEN):

S. 3811. A bill to require the payment of compensation to members of the Armed Forces and civilian employees of the United States who performed slave labor for Japanese industries during World War II, or the surviving spouses of such members, and for other purposes; to the Committee on Armed Services.

Mr. HATCH. Mr. President, it is my privilege today to introduce legislation that attempts to right wrongs and help those who have suffered.

I can think of few Americans who have suffered more than those brave World War II veterans who were subjected to slave labor conditions by Japanese industries during that difficult conflict. This legislation would provide long overdue compensation to our brave veterans who were forced into slave labor by our enemies.

Some might ask: why don't these veterans seek a remedy from the courts? The answer is that they have. Unfortunately, due to decisions that were made during the Cold War, our government relinquished the right of these veterans to successfully seek redress of their grievances on this matter in our nation's courts.

Regrettably, the Japanese Government has also declined to provide compensation.

Today, many of these American POWs are now in their eighties and nineties. Every day, more and more of these veterans pass away without ever realizing that their country truly cares for them and wants to right the wrongs of the past. If those who remain are to receive compensation, they must receive it now or this injustice will never be righted.

Remember, many of these men are the survivors of the Bataan Death March, which occurred in April of 1942 when the 70,000 Allied troops that comprised the defense of Bataan peninsula were ordered to surrender. Corregidor would fall a month later, but for the soldiers of Bataan the infamous Death March from the peninsula to holding camps throughout the Philippines was about to begin. During this march of 85 miles approximately 10,000 Allied forces were killed.

American POWs in the Pacific theater are also the survivors of the ''Hell Ships'' where servicemembers were placed in cargo ships destined for Japanese industrial sites. These ships were usually incredibly overcrowded and American POWs were subject to the horrific sanitary and living conditions. After all this, when American servicemembers arrived at their destination, the majority were treated as slave labor, they faced fierce corporal punishment for minor infractions, and unnecessary starvation and cruel work environments.

It is important to note that this bill, which I am honored to say is cosponsored by Senator BINGAMAN and Senator BIDEN, is not to embarrass or to ridicule the people of Japan; far from it. For over 60 years, Japan has been one of our great allies. As the ranking member on the Senate Intelligence Committee, I well know the invaluable support and assistance that Japan has rendered in the global war on terrorism, including committing hundreds of ground troops to assist in the development of Iraq's infrastructure. I know that all Americans are grateful for this assistance.

Mr. President, it is time to do the right thing and provide these veterans with the minimal level of compensation they deserve. I believe that this limited compensation is a debt of honor that we should not withhold.

By Mr. ISAKSON (for himself and Mr. REED):

S. 3812. A bill to require the Food and Drug Administration to conduct consumer testing to determine the appropriateness of the current labeling requirements for indoor tanning devices and determine whether such requirements provide sufficient information to consumers regarding the risks that the use of such devices pose for the development of irreversible damage to the skin, including skin cancer, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today, along with my colleague, Senator ISAKSON, to introduce the Tanning Accountability and Notification—TAN—Act of 2006. A House counterpart measure was introduced by Representatives MALONEY and BROWN-WAITE in February.

Close to a million people will be diagnosed with skin cancer this year. Approximately 1 in 5 Americans will develop skin cancer in their lifetime, and these numbers are on the rise.

There are many factors that contribute to these startling figures. In recent years efforts have been undertaken by various organizations to better inform the public about the risk of sun exposure and ways to decrease the chance of developing skin cancer. One area, however, where better information is sorely needed is on the use of indoor tanning salons.

Every day approximately 1 million people visit a tanning salon. It is a practice particularly popular among teens, the group that seems most at risk from the effects of indoor tanning. The American Academy of Dermatology, the Food and Drug Administration, FDA, the National Institutes of

Health, NIH, the Centers for Disease Control and Prevention, CDC, and the World Health Organization, WHO, all discourage the use of indoor tanning equipment.

This message and the current information about the risks of indoor tanning I fear are not being adequately passed on to consumers. The FDA has not updated its warnings on tanning beds since 1979. Regular users of indoor tanning beds deserve to be fully informed.

The TAN Act calls upon the FDA to revisit the current label on indoor tanning beds and determine through a process of public hearings and consumer testing what kind of labeling requirements would convey important information on the risks of indoor tanning.

This legislation is not about introducing new regulations but ensuring that the current FDA regulations remain effective in communicating accurate, current, and clear information to consumers of indoor tanning salons.

I look forward to working with my colleagues towards passage of this important, bipartisan legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

By Mr. SMITH (for himself, Mr. BINGAMAN, and Ms. MURKOWSKI):

S. 3813. A bill to permit individuals who are employees of a grantee that is receiving funds under section 330 of the Public Health Service Act to enroll in health insurance coverage provided under the Federal Employees Health Benefits Program; to the Committee on Homeland Security and Governmental Affairs.

Mr. SMITH. Mr. President, today I am introducing the Community Health Center Employee Health Coverage Act, a bill that will help provide community health centers, CHCs, better access to more affordable health insurance for their employees. I am pleased to have my colleagues Senators BINGAMAN and MURKOWSKI join me as original cosponsors on this important proposal.

CHCs form the backbone of the Nation's health care safety net. They provide essential medical services to some of our most vulnerable citizens, including the uninsured and Medicaid and Medicare beneficiaries. In my home State of Oregon, health centers provide over 130 points of access, where upwards of 180,000 individuals receive care each year. Approximately 41 percent of those served are uninsured and 36 percent are on Medicaid, and most all reside in either a rural or economically depressed area. Clearly, CHCs have an important role in ensuring that those who otherwise might be unable to afford health coverage have access to the care they need.

CHCs also serve their patients in a very efficient manner. Studies have shown that care provided Medicaid patients at CHCs costs 30 percent less than care provided in other settings. This is mainly due to a lower number of specialty referrals and fewer overall hospital admissions. CHCs effectively demonstrate how focusing on primary and preventive care can help keep individuals healthier, which ultimately enhances their lives and saves the broader health care system money. Above and beyond the efficiencies CHCs have achieved in service delivery, patients report overwhelming satisfaction for the treatment they are provided. Health care providers across the spectrum would be well-served by emulating CHCs' example of delivering affordable, high-quality health care in an efficient manner.

Given the enormous value CHCs have to the U.S. health care system, I believe Congress should do all it can to support their mission. I commend President Bush's commitment to increasing funding for health center expansion in recent years. I am pleased the administration's request for $180 million in new funding in fiscal year 2007 was included in the Senate's version of the budget resolution. As the appropriations process continues to move forward, I hope that those much-needed funds are ultimately approved by Congress.

The bill I am filing today will compliment the increased funding CHCs have received in recent years. Just like businesses across the nation, health centers are coping with the rising cost of providing health benefits to their employees. Premiums for private health insurance grew by 9.5 percent in 2005—the fifth consecutive year of increases over 9 percent. Because CHCs operate on very limited budgets, it has become more and more difficult for them to absorb these increased costs while continuing to provide affordable health care to their patients.

It is important to note that CHCs rely upon the Federal Government for more than half of their operating revenues. Each year, health centers receive 26 percent of their funding from direct Federal grants and another 36 percent from the Medicaid Program. Because CHCs are predominantly a Federal enterprise, I believe it makes sense for them to be able to reap many of the same benefits of other Federal entities. That is why the bill I am filing today would allow CHCs to purchase more affordable health insurance coverage for their employees through the Federal Employee Health Benefits Program, FEHBP.

Allowing federally funded entities to purchase health coverage through FEHBP is not unprecedented. Employees of Gallaudet University and certain U.S. Department of Agriculture grantees already are able to participate in FEHBP as if they were directly employed by the Federal Government. Considering that CHC providers are already deemed ''Federal employees'' for the purpose of receiving medical liability protection through the Federal Government, it is a logical next step to allow them to purchase health coverage through FEHBP. In doing so, we will be able to provide CHCs much needed security in knowing that their employees will have steady access to affordable health insurance.

I believe that in the long run, CHCs will be able to achieve a great deal of savings by purchasing health coverage for their employees through FEHBP. Premiums for policies purchased through FEHBP consistently grow at a much slower rate than other commercial policies. Every dollar CHCs save in employee benefit costs can be redirected into medical care for the vulnerable populations they serve. Access to FEHBP coverage also may help some CHCs provide health benefits to their employees for the first time. This could help recruit much needed medical personnel in underserved and rural communities. I am hopeful health centers in rural parts of my State will be able to attract the physicians they so desperately need by offering them FEHBP coverage.

There is wide support for CHCs in the Senate, as evidenced by the introduction of two other CHC-related measures this week. Senator BINGAMAN and I also are filing the Strengthen the Safety Net Act that will allocate unspent Medicaid disproportionate share hospital funds to CHCs and other community-based health care providers. And, I am joining a bipartisan group of my colleagues in introducing the CHC Reauthorization Act to ensure that CHCs can continue providing health care to some of our most vulnerable citizens for years to come. I hope the Senate's leadership will move this package of three bills quickly through the process, as a sign of appreciation for the important role CHCs play in the U.S. health care system.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 3815. A bill to improve the quality of, and access to, long-term care; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the Long-Term Care Quality and Modernization Act of 2006. I am pleased to be joined by my colleague, Senator BLANCHE LINCOLN of Arkansas.

As chairman of the Senate Special Committee on Aging, I am committed to improving the financing and delivery of long-term care. The Centers for Medicare and Medicaid Services estimate that national spending for long-term care was almost $160 billion in 2002, representing about 12 percent of all personal health care expenditures. While those numbers are already staggering, we also know that the need for long-term care is expected to grow significantly in coming decades. Almost two-thirds of people receiving long-term care are over age 65, with this number expected to double by 2030.

I know that providing quality long-term care services for America's frail, elderly, and disabled is the priority of

nursing homes and assisted-living facilities. I applaud their work but recognize we must do more to improve care and contain costs. When you consider that 8 of 10 nursing home residents rely on Medicare and Medicaid for their long-term care needs, it is apparent that Congress has a responsibility to improve these programs so they are sustainable for years to come.

That is why I am introducing the Long-Term Care Quality and Modernization Act of 2006 with Senator LINCOLN. This bill will address several problems nursing homes are experiencing with payments, regulations, workforce shortages, taxes, and disaster preparedness funding. The issue of long-term care expenditures need not be an insurmountable task. It will require action and cooperation by public officials and private providers as we work to find ways to help Americans become better prepared for their long-term care needs.

However, we cannot do it alone. Individuals must take responsibility and begin planning for their long-term care needs. With our national savings rate in steady decline, I fear the American middle class is woefully unprepared to meet the coming challenges of their long-term care. As we move forward in our effort to help individuals stay financially stable in their later years, we must encourage them to purchase long-term care insurance and save for long-term care services. Included in the bill I am introducing today is the Long-Term Care Trust Account Act of 2006. My legislation will create a new type of savings vehicle for the purpose of preparing for the costs associated with long-term care services and purchasing long-term care insurance. An individual who establishes a long-term care trust account can contribute up to $5,000 per year to their account and receive a refundable 10 percent tax credit on that contribution. Interest accrued on these accounts will be tax free, and funds can be withdrawn for the purchase of long-term care insurance or to pay for long-term care services. The bill will also allow an individual to make contributions to another person's long-term care trust account. This will help many people in our country who want to help their parents or a loved one prepare for their health care needs.

It is my hope that this legislation will help all Americans save for their long-term care needs. I urge my colleagues on both sides of the aisle to support this important bill.

By Ms. COLLINS:

S. 3816. A bill to prohibit the shipment of tobacco products in the mail, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce legislation that will help crack down on illegal sales of tobacco to underaged young people by banning the shipment of cigarettes and other tobacco products through the U.S. mail. Not only does the delivery of cigarettes and other tobacco products through the mail create opportunities for tax evasion, but it also creates an easy means through which children and young people can obtain these potentially deadly products.

Tobacco remains the No. 1 preventable cause of death in the United States today, accounting for more than 400,000 deaths a year and billions of dollars in health care costs. Moreover, tobacco addiction is a ''teen-onset'' disease: Ninety percent of all smokers start before they are 21. If we are to put an end to this tragic, yet preventable, epidemic, we must accelerate our efforts not only to help more smokers to quit, but also to discourage young people from ever lighting up in the first place.

Internet sales of tobacco are growing and growing fast. Unfortunately, effective safeguards against illegal sales to young people are virtually nonexistent on the more than 400 Web sites selling tobacco, making it easier and cheaper for kids to buy cigarettes.

A 2002 American Journal of Public Health study found that 20 percent of cigarette-selling Web sites do not say anything about sales to minors being prohibited. More than half require only that the buyer say they are of legal age. Another 15 percent require only that the buyer type in their date of birth, and only 7 percent require any driver's license information.

It is no wonder that Internet ''stings'' conducted by attorneys general in at least 15 States have found that children as young as 9 years old are able to purchase cigarettes easily. One study in The Journal of the American Medical Association reported that kids as young as 11 were successful more than 90 percent of the time in purchasing cigarettes over the Internet. Moreover, since Internet cigarette vendors typically require a two-carton minimum purchase, many high school and middle school buyers of Internet tobacco also end up serving as suppliers of cigarettes to other kids.

In an effort to combat this problem, all of the major credit card companies have taken steps to ensure that their systems are not used to process payments for illegal cigarette sales. Moreover, all of the major commercial carriers—UPS, DHL and FedEx—have agreed to put a stop to the mail order sale and delivery of tobacco products. This leaves our U.S. Postal Service as the sole remaining courier for the delivery of tobacco products to minors. I believe that it is time for us to close this final delivery gap so that cigarettes and other tobacco products are not so easily accessible to our Nation's children.

The Postal Code already makes it illegal to mail alcoholic beverages and guns. The legislation I am introducing today will amend title 39 of the United States Code to add cigarettes and smokeless tobacco to the list of restricted, nonmailable matter. Any person found guilty of mailing such a product would be liable for a civil penalty of up to $5,000 or 10 times the estimated retail value of the tobacco products, including all Federal, State, and local taxes, whichever is highest, for a first violation. Civil penalties of up to $100,000 would be imposed for a second or each subsequent violation.

Mr. President, the U.S. Postal Service should not be the delivery agent for illegal cigarette traffickers. The legislation I am introducing today will close a loophole that has allowed Internet and mail order companies to circumvent the law, and I urge my colleagues to support this reform.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 3818. A bill to amend title 35, United States Code, to provide for patent reform; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce with Senator LEAHY the Patent Reform Act of 2006.

This bill addresses many of the issues and problems that my colleague, Senator LEAHY, and I have identified through a series of hearings and discussions with stakeholders. We also had the benefit of knowing the priorities identified by Chairman LAMAR SMITH and Ranking Democratic Member BERMAN, who have introduced an analogous bill in the House.

I would like to thank the Senator LEAHY for all of his hard work and assistance in developing this bill and for his willingness to reach a compromise on those issues where our policy views conflicted.

This bill is not perfect, and is not the bill that either I or my esteemed cosponsor would have introduced independently, but I believe that it fairly reflects a compromise between my priorities and the priorities of Senator LEAHY.

We have also attempted to achieve some balance between the priorities identified by the various industries and stakeholders that we consulted while formulating our policy views in this area.

I am sure that further refinements will be made to this bill during the legislative process, so I would encourage those who are either pleased or displeased by any of the aspects of the bill to continue working with us to resolve any outstanding issues.

This bill addresses many of the problems with the substantive, procedural, and administrative aspects of the patent system, which governs how entities here in the United States apply for, receive, and eventually make use of patents covering everything from computer chips to pharmaceuticals to medical devices to—I am told—at least one variety of crustless peanut butter and jelly sandwich.

As the Founding Fathers made clear in Article 1, section 8 of the Constitution, Congress is charged with ''promot[ing] the Progress of Science

and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.''

There is a growing consensus among those who use the patent system that significant reform is needed.

While there appears to be a high degree of consensus on some issues relating to patent reform—such as the advisability of creating a new post-grant review process, there are significant disagreements about other changes to the patent system and about how best to streamline patent litigation.

By all accounts, patent litigation has become a significant problem in some industries. There are a number of factors in patent law that drive up the cost and uncertainty of litigation in ways that are unjustified. However, some of the principal problems and costs associated with patent litigation are not uniform across industrial sectors. This has led to substantial and sometimes vociferous disagreements about the nature of the underlying problems and, thus, what the appropriate solutions might be. We have done our best to resolve these disagreements based on our judgment about what is likely to preserve a balance between patent holders and alleged infringers in these actions.

There is also substantial consensus regarding a number of basic, structural changes to the patent system. The most significant of these involves moving from our current first-to-invent system to something approximating a first-to-file rule in determining which of two conflicting inventors has the right to obtain a patent.

While there is general agreement regarding some of the changes necessary to move toward a first-to-file system, there are some disagreements that remain unresolved by the current language of this bill. Although we have done our best to preserve many of the principles defining what constitutes ''prior art'' under current law, patent experts continue to disagree over whether we have achieved this goal.

Additionally, shortly before introduction, a concern emerged that we had not adequately preserved the changes enacted by the Cooperative Research and Technology Enhancement Act—CREATE Act, P.L. 108–453—involving some types of double patenting. Since Senator LEAHY and I were original cosponsors of that law, I can assure you that we will be receptive to concerns in this regard and try to fix them.

With that preface, I would like to discuss several of the more significant changes made to the current patent system by this bill.

Sections 1 and 2 of the bill contain the short title, table of contents, and other similar provisions. Sections 3 and 4 contain amendments to implement the first-to-file rule and other changes to the manner in which patent applications are filed with the Patent and Trademark Office and the process governing the examination of applications. Much of this language is similar to language in previous bills. However, as I have mentioned, several significant issues remain unresolved, and we will continue to work with stakeholders and other members to ensure an appropriate resolution.

Section 5 changes the remedies available to plaintiffs in patent infringement suits, as well as the available defenses to patent infringement. The two most substantial changes involve limitations on the availability of enhanced damages upon a showing of ''willful'' infringement by a plaintiff and a parallel limitation on the availability of unenforceability under the doctrine of ''inequitable conduct.'' Willfulness and inequitable conduct were two of the three major subjective elements that were identified in a major report on the current patent system by the National Research Council of the National Academy of Sciences. The report, entitled ''A Patent System for the 21st Century,'' recommended limiting both willfulness and the inequitable conduct defense to streamline patent litigation. We were unable to reach agreement on repealing the ''best mode'' requirement, which was the third subjective element identified both in the report and by various stakeholders, but I am hopeful that we will continue to work toward a mutually-acceptable compromise on that issue.

Section 5 also contains a provision expanding ''prior user rights.'' These prior user rights are, in reality, a defense to infringement liability for those making or preparing to make commercial use of an invention prior to a patent being issued. Prior to a patent's issuance, such a user often has no way of knowing that he is—or will be—infringing a patent. In some cases, the user has independently invented the subject matter in question, in which case it would be inequitable to subject him or her to infringement liability. Currently, the prior user defense is available only with respect to method patents. The bill expands the prior user defense to all categories of patents and makes related changes to this defense.

Additionally, Section 5 contains two of the more controversial provisions in the bill. The first is a rough codification of an ''apportionment'' rule for calculation of damages. There is an existing, uncodified rule for such apportionment that exists in case law. However, codifying the rule will increase its clarity and mandate its application in all appropriate cases.

The second controversial provision in this section is a mandatory fee shifting provision. The language of this provision requires courts to award attorneys' fees to a prevailing party in cases where the non-prevailing party's legal position was not substantially justified. This language is similar to the test used in the Equal Access to Justice Act. This provision is intended to discourage litigation in those cases where a plaintiff's or defendant's case is so weak as to be objectively unreasonable.

Finally, this section also contains a repeal of Section 271(f) of Title 35. Under current law, either a foreign or domestic patent holder may be able to obtain damages based on foreign uses of domestically-manufactured components of an infringing article. In essence, current law provides for the extraterritorial application of domestic law in a manner that benefits foreign manufacturers and patentees in some situations.

Section 6 contains procedures for instituting a new type of post-grant review preceding that will allow the validity of a patent to be challenged in an administrative proceeding conducted by the Patent and Trademark Office rather than in court litigation.

Under current law, there are narrow reexamination procedures by which the PTO may reconsider a patent's validity at the request of an interested party. However, current reexamination proceedings are very limited and do not allow for a full consideration of a patent's validity. As a result, even when reexamination is available, potential litigants generally wait to challenge a patent's validity until an infringement suit has been brought despite the higher costs and prolonged uncertainty of doing so.

I believe that by adopting a more robust post-grant review proceeding we are providing a more efficient means of challenging a patent's validity in an administrative proceeding. This is necessary to address systemic problems in our patent system, making post-grant review an essential component of any meaningful reform legislation. While there appears to be substantial agreement regarding the need for a more meaningful post-issuance review, there are strong disagreements over its specific attributes and scope.

During hearings conducted in the Subcommittee on Intellectual Property and during meetings with stakeholders, we encountered widely disparate proposals and suggestions regarding post-grant review from stakeholders, academics, and lawmakers. At one end of the spectrum are proposals that would create a low-cost, streamlined proceeding by simply expanding the current inter partes reexamination. At the other end of the spectrum are those that would like to see the creation of specialized patent courts that would partially supplant Federal court litigation. With this bill, we have introduced a proposal that falls somewhere in between these two extremes.

This bill institutes a robust post-grant opposition system. The new procedures for post-grant cancellation proceedings create a new system for challenging the validity of problematic or suspect patents, which will allow those who are concerned about infringing such a patent to test its validity in an administrative proceeding instead of waiting to assert invalidity as a defense in an infringement action. The

new procedures are tiered in such a way as to encourage challenges to occur within the first year after a patent's issuance. After the one-year ''first window,'' challenges may still be brought by those who are able to demonstrate a substantial economic stake in the outcome of the proceeding. To deter piecemeal litigation, if a party institutes a proceeding after the first year, any challenge to patentability available to that party with respect to the patent must be either raised or waived. Thus, a challenger who participates in a proceeding outside the first year is estopped from raising any grounds relating to patentability that were or could have been raised in the previous challenge.

In addition to the new post-grant review proceedings, language in section 9 of this bill makes substantial improvements to the existing inter partes reexamination proceeding that are based on recommendations from the PTO and stakeholders. The most significant change to the reexamination proceedings is the modification of the estoppel effect of such proceedings. Currently, participants in an inter partes reexamination are barred from subsequently raising any grounds they ''raised or could have raised.'' Thus, parties who wish to challenge a patent more than a year after its issuance will have the option of bringing a narrow challenge that will not subject them to full estoppel as an alternative to bringing a full post-grant opposition proceeding or reserving their arguments for court. This approach provides a range of alternatives to legitimate challengers, while still providing balanced protections against harassing or abusive litigation for the patentee.

Section 8 would amend the current statutory provision that determines the appropriate venue for patent litigation. The intent of the venue language is to serve as a starting point for discussions as to what restrictions—if any—are appropriate on the venue in which patent cases may be brought. Section 8 also contains a provision allowing for interlocutory appeals of decisions involving the claim construction of a patent. Again, this language is intended to generate discussion about the current interplay between the Federal district and appellate courts. As both academics and the patent bar have noted, the resolution of the legal questions involving claim construction appear to be taking up a greater and greater portion of the docket of the Federal circuit court of appeals.

Given the high percentage of reversals on claims construction issues, some experts believe that an interlocutory appeal of Markman decisions might allow parties to resolve disputes as to claim construction more decisively prior to proceeding to a full trial. Alternatively, other experts believe that a return to the treatment of claims construction as a mixed question of law and fact might induce more deferential review by the appellate court. Still others have suggested that increased expertise among the district court judges trying patent cases might result in a lower reversal rate. In that regard, I should note that Congressman ISSA has a bill authorizing a pilot project that appears to be a promising approach to increasing the expertise of Federal judges who handle patent cases, and I am considering introducing a similar bill here in the Senate. While I am not wedded to any particular approach or combination of approaches, I believe this is an issue that should receive serious attention and consideration by Congress.

Section 9 of the bill includes additional statutory changes that either implement or complement provisions found elsewhere in the bill. It also includes expanded authority for the PTO to conduct substantive rulemaking, as well as the changes to the inter partes reexamination procedures that I mentioned previously.

Section 10 includes a generic effective date provision. Obviously, I will need to modify the effective dates of the various provisions in the bill once we have been able to assess the difficulty of implementing various provisions in this bill.

In closing, I would like to thank my cosponsor, the senior Senator from Vermont, for all the work he has put into this bill and to compliment his intellectual property counsel, Susan Davies, for her efforts as well. I am committed to moving this legislation forward and hope that my colleagues will join me in my efforts to refine and enact this important bill.

Mr. LEAHY. Mr. President, the Senate is about to adjourn for its August recess—4 weeks when we get to reconnect with our constituents, catch up on the concerns of our home States, and study our legislative plans with a depth and attention that we cannot devote during the hectic days we are in session. Some of us may even spend a little time with our families and friends. As I have done in years past, I will be in Vermont. The choice between spending August in Washington, DC, or Middlesex, VT, has always been an easy one for me.

When the Senate is in session, our obligations are many and varied, as important as they are diverse. We hold hearings, and then we pursue followup questions. We try to engage in oversight, though that has not been a particularly fruitful exercise with this current administration. We investigate issues, and then we endeavor to craft solutions. We vote and we caucus and we deliberate.

It is not always a process that yields results, but today I can report it has. I am pleased to join with the chairman of the Intellectual Property Subcommittee today in introducing a bipartisan bill on patent reform. The bill is the result of almost 2 years of hard work on hard issues. We held several hearings, had innumerable meetings with a universe of interested participants in the patent system, and received input from a number of voices in debate about patent reform. We delved deeply into the myriad problems plaguing our patent system, especially those that hinder the issuance of high-quality patents.

In introducing this bill together, we take a productive step toward updating the most outdated aspects of the patent code and attempt to bolster the Patent and Trademark Office in its administrative review of patents throughout the process. We are striving to place incentives on the parties with the most information to assist the PTO by sharing that information. We place our patent system in line with much of the rest of the world, by moving from a ''first-to-invent'' system to a ''first-to-file.''

Congress needs to address the urgent needs for revision and renewal in our patent system, and we must harness the impressive intellectual power and varied experiences of all the players in the patent community as we finalize our new laws. I believe that, while introducing this bill today is not the end of the process—and indeed, in many respects, it is truly the beginning—it is a significant accomplishment that we have come together to set down a comprehensive approach to overhauling our patent system. If the United States is to preserve its position at the forefront of innovation, as the global leader in intellectual property and technology, then we need to move forward, and this bill is our first step. We must improve and enhance the quality of our patent system and the patents it produces.

This legislation is not an option but a necessity. Senator HATCH and I have made genuine progress on this complex issue. We agreed on many salutary changes, but it can be no surprise that we differed on some aspects of the effort as well. Recognizing the critical importance of compromise, of offering a bill to the interested public to study and improve, and of taking a clear first step down the path to genuine reform, we both made concessions. This is not the bill I would have introduced if I were the sole author, and I expect Senator HATCH would say the same. I appreciate the concessions that Senator HATCH made. I have tried to be both reasonable and accommodating in honoring my commitment to him—a commitment that he requested specifically—to introduce a bill before the August recess.

In particular, I am concerned about how some of the changes proposed would affect the generic pharmaceutical industry, especially the provision that would limit the ''inequitable conduct'' defense to only those cases in which a patentee's willful deception of the PTO results in an invalid patent claim. While I think we should expect the highest caliber of behavior by those who are seeking patents—which are, after all, often highly profitable government monopolies—surely we can at

least insist on an absence of affirmative deceit. I hope and expect that we can continue the discussion on this issue as the year progresses.

I also want to ensure the delicate balance we have struck in the post-grant review process and make certain that the procedure is both efficient and effective at thwarting some strategic behavior in patent litigation and at promoting a healthier body of existing patents. Fee-shifting, even in a limited set of cases, likewise raises concerns that should have a more public airing.

I respect the necessity for considering and balancing a number of different concerns as we draft comprehensive and complicated legislation. I will never sacrifice the quality of the laws we produce to expediency, but I recognize the utility of such compromises when, as with this bill, introduction is a first step in a larger and longer discussion.

I am extremely pleased that Senator HATCH and I have come together to tackle these important and urgent issues. Many hours of hard work were spent by both of our offices to develop legislative language so that we can, today, jointly introduce a bill to move the debate forward. The bill is a remarkable achievement and a substantial step toward real reform. I look forward to continuing to work with Senator HATCH, other members of the Senate Judiciary Committee, and the affected parties on these matters.

By Mr. BINGAMAN (for himself, Mr. SMITH, Mrs. LINCOLN, Mr. PRYOR, and Mr. AKAKA):

S. 3819. A bill to amend title XIX of the Social Security Act to provide for redistribution and extended availability of unexpended medicaid DSH allotments, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators SMITH, LINCOLN, PRYOR, and AKAKA entitled the ''Strengthening the Safety Net Act of 2006.'' This legislation is important to the continued survival of many of our Nation's safety net hospitals that provide critical health care access to our Nation's 46 million uninsured citizens through the Medicaid disproportionate share hospital, or DSH, program.

In recognition of the burden certain hospitals bear in providing a large share of health services to the low-income patients, including Medicaid and the uninsured, the Congress established the Medicaid DSH program in the mid-1980s to give additional funding to support such ''disproportionate share'' hospitals. By providing financial relief to these hospitals, the Medicaid DSH program maintains hospital access for the poor. As the National Governors Association has said, ''Medicaid DSH's funds are an important part of statewide systems of health care access for the uninsured.''

Mr. President, I request unanimous consent for the text of the bill and the text of the fact sheet on the legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Strengthening the Safety Net Act of 2006''.

SEC. 2. REDISTRIBUTION AND EXTENDED AVAILABILITY OF UNEXPENDED MEDICAID DSH ALLOTMENTS.

Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(1) in paragraph (3)(A), by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (7)'';

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6), the following new paragraph:

''(7) REDISTRIBUTION AND EXTENDED AVAILABILITY OF UNEXPENDED ALLOTMENTS.—

''(A) ESTABLISHMENT OF REDISTRIBUTION POOL.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall establish, as of October 1 of fiscal year 2007, and of each fiscal year thereafter, the following redistribution pool:

''(I) In the case of fiscal year 2007, a $150,000,000 redistribution pool from the total amount of the unexpended State DSH allotments for fiscal year 2004.

''(II) In the case of fiscal year 2008, a $250,000,000 redistribution pool from the total amount of the unexpended State DSH allotments for fiscal year 2005.

''(III) In the case of fiscal year 2009 and each succeeding fiscal year thereafter, a $400,000,000 redistribution pool from the total amount of the unexpended State DSH allotments for the third preceding fiscal year.

''(ii) UNEXPENDED STATE DSH ALLOTMENTS.—If a State claims Federal financial participation for a payment adjustment made under this section for a fiscal year from which a redistribution pool of unexpended State DSH allotments has already been created under clause (i), then, for purposes of this paragraph, the total amount of unexpended State DSH allotments in the fiscal year following the State claim for such Federal financial participation, shall be reduced by the Federal financial participation related to such claim.

''(iii) REDUCTION IN AMOUNTS AVAILABLE.—If the total amount of the unexpended State DSH allotments for a fiscal year (taking into account any adjustment to such amount required under clause (ii)) is less than the amount necessary to provide, for such fiscal year, the redistribution pool described in clause (i) and the amounts to be made available for grants under section 3(g) of the Strengthening the Safety Net Act of 2006 for such fiscal year, the Secretary shall reduce the amounts that are to be available for the redistribution pool under this paragraph and grants under such section, respectively, to such total amount.

''(B) REDISTRIBUTION.—

''(i) IN GENERAL.—Not later than October 1, 2006, and October 1 of each year thereafter, the Secretary shall allot the redistribution pool established for that fiscal year among eligible States.

''(ii) PRIORITY.—In making allotments under clause (i), the Secretary shall give priority—

''(I) first to eligible States described in paragraph (5)(B) (without regard to the requirement that total expenditures under the State plan for disproportionate share hospital adjustments for fiscal year 2000 is greater than 0); and

''(II) then to eligible States whose State DSH allotment per medicaid enrollee and uninsured individual for the third preceding fiscal year is below the national average DSH allotment per medicaid enrollee and uninsured individual for that fiscal year.

''(C) EXPENDITURE RULES.—An amount allotted to a State from the redistribution pool established for a fiscal year—

''(i) shall not be included in the determination of the State's DSH allotment for any fiscal year under this section;

''(ii) notwithstanding any other provision of law, shall remain available for expenditure by the State through the end of the second fiscal year after the fiscal year in which the allotment from the redistribution pool is made for expenditures incurred in any of such fiscal years; and

''(iii) shall only be used to make payment adjustments to disproportionate share hospitals in accordance with the requirements of this section.

''(D) DEFINITIONS.—In this paragraph:

''(i) ELIGIBLE STATE.—The term 'eligible State' means, with respect to the fiscal year from which a redistribution pool is established under subparagraph (A)(i), a State that has expended at least 90 percent of the State DSH allotment for that fiscal year by the end of the succeeding fiscal year.

''(ii) STATE DSH ALLOTMENT PER MEDICAID ENROLLEE AND UNINSURED INDIVIDUAL.—The term 'State DSH allotment per medicaid enrollee and uninsured individual' means the amount equal to the State DSH allotment for a fiscal year divided by the sum of the number of individuals who received medical assistance under the State program under this title for that fiscal year and the number of State residents with no health insurance coverage for that fiscal year, as determined by the Bureau of the Census.

''(iii) NATIONAL AVERAGE DSH ALLOTMENT PER MEDICAID ENROLLEE AND UNINSURED INDIVIDUAL.—The term 'national average DSH allotment per medicaid enrollee and uninsured individual' means the amount equal to the total amount of State DSH allotments for a fiscal year divided by the sum of the total number of individuals who received medical assistance under a State program under this title for that fiscal year and the total number of residents with respect to all States who did not have health insurance coverage for that fiscal year, as determined by the Bureau of the Census.''.

SEC. 3. HEALTH SERVICES FOR THE UNINSURED.

(a) DEMONSTRATION GRANTS TO HEALTH ACCESS NETWORKS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall award demonstration grants to health access networks.

(2) APPLICATION.—Each applying health access network shall submit a plan that meets the requirements of subsection (c) for the purpose of improving access, quality, and continuity of care for uninsured individuals through better coordination of care by the network.

(3) AUTHORITY TO LIMIT NUMBER OF GRANTS.—The number of demonstration grants awarded under this section shall be limited, in the discretion of the Secretary, so that grants are sufficient to permit grantees to provide patient care services to no fewer than the number of uninsured individuals specified by each network in its grant application.

(b) DEFINITION OF HEALTH ACCESS NETWORK.—

(1) IN GENERAL.—In this section, the term ''health access network'' means a collection

of safety net providers, including hospitals, community health centers, public health departments, physicians, safety net health plans, or other recognized safety net providers organized for the purpose of restructuring and improving the access, quality, and continuity of care to the uninsured and underinsured, that offers patients access to all levels of care, including primary, outpatient, specialty, certain ancillary services, and acute inpatient care, within a community or across a broad spectrum of providers across a service region or State.

(2) INCLUSION OF SECTION 330 NETWORKS AND PLANS.—The term ''health access network'' includes networks and plans that meet the requirements for funding under section 330(e)(1)(C) of the Public Health Service Act (42 U.S.C. 254b(e)(1)(C)).

(3) INCLUSION OF INTEGRATED HEALTH CARE SYSTEMS.—

(A) IN GENERAL.—Such term also includes an integrated health care system (including a pediatric system).

(B) DEFINITION OF INTEGRATED HEALTH CARE SYSTEM.—For purposes of this section, an integrated health care system (including a pediatric system) is a health care provider that is organized to provide care in a coordinated fashion and assures access to a full range of primary, specialty, and hospital care, to uninsured and under-insured individuals, as appropriate.

(c) PLAN REQUIREMENTS.—

(1) IN GENERAL.—A health access network that desires a grant under this section shall submit a plan to the Secretary that details how the network intends to—

(A) manage costs associated with the provision of health care services to uninsured and underinsured individuals served by the health access network;

(B) improve access to, and the availability of, health care services provided to uninsured and underinsured individuals served by the health access network;

(C) enhance the quality and coordination of health care services provided to uninsured and underinsured individuals served by the health access network;

(D) improve the health status of uninsured and underinsured individuals served by the health access network; and

(E) reduce health disparities in the population of uninsured and underinsured individuals served by the health access network.

(2) IDENTIFICATION OF MEASURABLE GOALS.—The health access network shall—

(A) identify in the plan measurable performance targets for at least 3 of the goals described in paragraph (1); and

(B) agree that a portion of the payment of grant funds for patient care services after the first year for which such payment is made shall be contingent upon the health access network demonstrating success in achieving such targets.

(d) USE OF FUNDS.—A health access network that receives funds under this section shall expend—

(1) an amount equal to not less than 90 percent of such funds for direct patient care services; and

(2) an amount equal to not more than 10 percent of such funds for the network's operation and development for the purpose of improving the efficiency and effectiveness of the business and clinical operations of providers within the health access network, including through the integration of management information systems (including development and implementation of electronic medical records) and financial, administrative, or clinical functions across providers.

(e) RULE OF CONSTRUCTION REGARDING DIRECT PATIENT CARE SERVICES.—With respect to health access networks described in subsection (b)(2), the term ''direct patient care services'' shall be construed to mean the provision or purchase of services, such as specialty medical care and diagnostic services, that are not available or are insufficiently available through the network's providers. In purchasing such services for uninsured and underinsured individuals, networks shall, to the maximum extent feasible, endeavor to purchase such services from safety net providers.

(f) SUPPLEMENT, NOT SUPPLANT.—Funds paid to a health access network under a grant made under this section shall supplement and not supplant, other Federal or State payments that are made to the health access network to support the provision of health care services to low-income or uninsured patients.

(g) FUNDING.—

(1) TRANSFER OF PORTION OF UNEXPENDED DSH ALLOTMENTS.—Notwithstanding any other provision of law, as of October 1 of fiscal year 2007, and each fiscal year thereafter, amounts described in paragraph (2) are hereby transferred from the total amount of the unexpended State DSH allotments under section 1923 of the Social Security Act (42 U.S.C. 1396r–4) and made available for grants under this section.

(2) AMOUNTS MADE AVAILABLE FOR GRANTS.—The amounts to be made available under this section for each fiscal year beginning with fiscal year 2007 are equal to the redistribution pool amounts determined for each fiscal year under section 1923(f)(7)(A)(i) of the Social Security Act (42 U.S.C. 1396r–4(f)(7)(A)(i)) (as amended by section 2(3) of the Strengthening the Safety Net Act of 2006).

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

STRENGTHENING THE SAFETY NET ACT OF 2006

This legislation, introduced by Senators Bingaman, Smith, Lincoln, Pryor, and Akaka, would redistribute unused federal Medicaid Disproportionate Share Hospital (DSH) funds to strengthen and augment the nation's health care safety net. Half of the redistributed funds would be used to increase the availability of DSH funds to states currently receiving low or less than average DSH allotments and the other half would be used to fund integrated ''health access networks'' of community health centers, public hospitals, and other safety net providers. These networks would be required to provide high quality primary, outpatient, inpatient and specialty care to uninsured and other medically vulnerable populations.

In 2007, the bill would redistribute $300 million in unexpended funds; in 2008, $500 million; and in 2009 and thereafter $800 million. These levels would be prorated downward if there are insufficient unexpended funds to meet the statutory amounts. This legislation will:

Keep funds allocated to the safety net with the safety net; Provide money to test implementation of high quality integrated networks of safety net providers; and, Allow networks of community health centers to purchase specialty care services.

BACKGROUND

Congress created the Medicaid DSH requirement in 1981 to ensure that state Medicaid programs provide adequate payments to hospitals whose patient populations are disproportionately composed of low income Medicaid and uninsured patients. Medicaid DSH payments have evolved into one of the most important sources of financing for the nation's safety net. Each year, each individual state is allocated a DSH allotment. The allotments vary considerably from state to state and a state's ability to draw-down its DSH allotment varies depending on its financial resources. Each year, some states do not utilize their entire DSH allotment.

In part, this legislation would permit a redistribution of unused DSH funds to states that have lower DSH allotments. Two categories of states would be prioritized to receive redistributed DSH money to supplement their existing DSH allotment: (1) low DSH states (i.e. states that are designated by the MMA as a low DSH state due to DSH expenditures being less than 3 percent of total Medicaid expenditures in fiscal year 2000) and (2) states whose DSH allotment per Medicaid enrollee and uninsured individual is below the national average. Only states that have spent at least 90 percent of their DSH allotment would be eligible for the redistribution.

Redistributed DSH dollars also would fund ''Health Access Network'' demonstration projects designed to improve access, quality, and continuity of care for uninsured individuals through better coordination of care. To obtain funding under this legislation, health access networks would be required to submit a plan to the Secretary of the Department of Health and Human Services that details how the network plans to:

Reduce costs associated with the provision of health care services to uninsured individuals; Improve access to, and the availability of, health care services provided to individuals served by the health access network; Enhance the quality and coordination of health care services provided to such individuals; Improve the health status of communities served by the health access network; and, Reduce health disparities in such communities.

Health access networks would be required to identify measurable performance targets and demonstrate progress in order to qualify for future year funding. Grantees would have to spend 90 percent of awarded funds for direct patient care services.

By Mr. DURBIN:

s. 3820. A bill to expand broadband access for rural Americans; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise to introduce a bill entitled Broadband for Rural America Act of 2006.

There is no question that broadband is an essential component of our lives, both at work and at home. Broadband access is becoming a vital service, much like water, sewer, gas, and electricity are essential resources for our daily living. Our homes and businesses need affordable and easy access to an always-on, high speed and high capacity Internet connection, much like our homes and businesses need the traditional utility services.

Additionally, people who work outside the confines of an office building need broadband access on the go. Often, it is not enough to have only a cell phone to remain in touch with your boss, coworker, client, or supplier. In today's global economy, we need easy methods to transfer a vast quantity of data, fast and reliably, even if we are not near a landline phone, fax, or computer terminal.

Yet for so many Americans today, broadband access is still a foreign concept. The digital divide remains a reality. Rural broadband deployment

continues to lag behind urban deployment, and the differential continues to grow, even as broadband usage has grown significantly in our Nation.

When I travel to small or rural towns in downstate Illinois and elsewhere, I meet people who tell me that they cannot wait to have broadband, but that there is no service available where they live. I am certain that all of my colleagues in the Senate can identify with situations like this, where they have met constituents who are eager to jump onto the Information Superhighway, yet there is no on-ramp.

According to a 2004 report issued by the U.S. Department of Commerce, only about 25 percent of rural households that use the Internet have broadband access, compared to over 40 percent of the same households in urban areas. Similarly, the U.S. Department of Agriculture's 2005 report found that farm households have home access to broadband at almost half the level of all U.S. households nationwide.

The Pew Internet and American Life Project found similar results. In its 2006 report, Pew found that only 18 percent of rural adults reported a home broadband connection in the year 2005, compared to 31 percent of urban adults.

All these different studies issued by various authorities point to a consistent conclusion: Americans living in urban areas are almost twice as likely to have home broadband access as do their rural counterparts.

Contrary to popular belief, however, rural households use computers and information technology in ways that are very similar to their urban counterparts. Thus, it appears that the main obstacle to improving rural broadband adoption is not differences in the users themselves, but in the availability and price of broadband service.

It is clear that citizens in small towns and rural areas simply do not have the same options that people in cities and urban areas do. And, in some of the rural areas where broadband is available, these customers often pay more for inferior quality than customers in the more populated areas.

As our rural residents are falling behind city dwellers, so too, is our Nation falling behind the rest of the developed world.

The Organization for Economic Cooperation and Development found that, in 2004, America ranked 12th among developed nations in broadband access per 100 inhabitants. However, the same study had found that in 2001, we ranked 4th in the developed world. So, this means that in just 3 short years, we lost our competitive edge to 8 countries.

Broadband is critical to community and economic development, as it encourages investment, creates jobs, improves productivity, fosters innovation, and increases consumer benefits in every corner of our Nation.

A 2003 study by Criterion Economics found that adoption of current generation broadband would increase the gross domestic product by $179.7 billion, while sustaining an additional 61,000 jobs per year over the next 19 years. The study also projected 1.2 million jobs could be created if next generation broadband technology were rapidly deployed.

In early 2004, President Bush called for universal and affordable access to broadband by the year 2007, because it will enhance our Nation's economic competitiveness and help improve education and health care for all Americans. Kevin Martin, the chairman of the Federal Communications Commission, has said he is committed to expanding the number of broadband users in our country so that we can improve our rank in the world.

I agree with both President Bush and Chairman Martin. The administration, the FCC, Congress, and the States can all contribute to closing the digital divide, ensuring that rural Americans are not left behind in the 21st century's digital economy.

We need to work together to address this critical shortfall in our Nation's infrastructure. We need a seamless national network of broadband providers that will serve everyone in America.

Whether it is through telephone wire, cable, fiber, satellite, wireless, powerline, or any other medium, we need every existing and future broadband service provider to step up to the national challenge.

That is why I am introducing a bill that will encourage rapid deployment of high quality and affordable high speed broadband service, especially in the rural areas that desperately need this technology.

The Broadband for Rural America Act of 2006 includes five major provisions. Each provision is designed to eliminate obstacles that hinder broadband deployment in rural America today.

First, my bill creates a new Federal program specifically targeted to assist people who are doing the necessary work at the earliest stages to bring broadband to their communities.

These are future customers who are weary of waiting for telecommunications and cable companies to eventually reach their corners of the State. These are individuals, businesses, and co-ops who want to create a demand pool to entice new or existing carriers to quickly expand broadband service to areas where they work and live.

We have several groups like this in my home State of Illinois. They cannot wait any longer, so they have taken the initiative to work for access to affordable high quality broadband service.

Many of these groups and individuals work in collaboration with like-minded community leaders, businesspeople, engineers, and other experts to learn all they can about their region. They are the local experts on the unique geographic, economic, and lifestyle needs of their market. They can conduct the mapping and surveying work, to find out where there are services and gaps in their neighborhoods, and what technology is best suited to serve their region.

And, if they discover that no existing provider wants to expand service to where they are, based on the company's internal cost-benefit analysis, these groups are willing to start a communications service of their own, using technology they can afford, to provide broadband for and by themselves. These good people do not want to be left out of the new economy. They need our help.

Yet, currently, there is no readily accessible source of funding from the Federal Government for these groups that are undertaking the critical early stage groundwork. If they were already communications service providers, they could look for funding through other programs, including the USDA's Rural Utilities Service Program, the universal service fund, or the Small Business Administration. They could also go to the financial markets to seek venture capital and operating funds from established private sector investors.

But as startup groups trying hard to serve their local or rural community's needs, they have few places to turn to for financial assistance.

My bill creates a new Office of Broadband Access within the FCC that would administer a trust fund from which Federal grants can be issued to these startup groups. Under my bill, eligible entities include nonprofits, academic institutions, local governments, and commercial companies that will work to identify broadband access needs in unserved areas of the country.

The types of projects to be funded through this new program will include feasibility studies, mapping, economic analysis, and other activities undertaken to determine the reasons for the current lack of service and the scale, scope, and type of broadband services most suitable for the particular unserved area.

To further assist with these startup projects, my bill requires the FCC to collect more useful information from current broadband service providers to ascertain where and how broadband service is available, and to report to Congress on the areas that are unserved.

This reporting requirement is a bipartisan idea that Senator BILL NELSON and Senator JIM DEMINT recently presented before the Senate Commerce Committee. I am happy to work with them to further encourage the FCC to collect more useful data on the state of broadband deployment.

Finally, the revenues to fund this trust fund will be derived from direct appropriations of $10 million per year for 5 years, plus 1 percent of proceeds from all auction sales of spectrum conducted by the FCC, which are to be set aside for this unique purpose. I believe this should generate enough revenues to sustain this trust fund for the next

5 years, which is the critical time for Federal assistance.

When Congress created the Rural Utilities Service Broadband Loan and Loan Guarantee Program in the 2002 farm bill, we charged the U.S. Department of Agriculture with providing much needed funds to bring broadband to rural America. The bill authorized $100 million for fiscal years 2002 to 2007 to provide below market-rate loans and loan guarantees for the construction and improvement of facilities and equipment to provide broadband service.

While this loan program has had some successes over the past 4 years, it has also faced serious internal and external criticism.

For example, in September 2005, USDA's inspector general issued an internal audit report pointing out major problems with the program. Among other concerns, the report alleges that, in decisions that were inconsistent with provisions of authorizing statute, USDA has funded entities in suburban—not rural—areas, and in places that are already receiving broadband service.

The internal report also accuses the agency of mismanaging the program, leading to irregularities and even fraud in the decisionmaking and approval processes for applications.

To add more controversy to this program, in May of this year, USDA was sued by the cable industry for allegedly failing to follow the statutory mandates that created the broadband loan program.

Striking a tone similar to the inspector general's internal audit report, the lawsuit alleges among other issues that USDA has diverted Federal funds to suburban areas and has failed to ensure that unserved communities receive first priority.

I support the USDA's rural broadband loan program, and I want to see the program grow and continue to fund worthy projects. But I also believe that these recent internal and external developments merit serious consideration. So, in the spirit of working with the USDA to reform the problematic areas, my bill reforms and extends the life of the loan program for another 5 years, to expire in 2012, not 2007.

The bill goes to the heart of the concerns raised by the critics of the program. It amends the definition of an eligible rural community to exclude any area located within 10 miles of any city with a population of over 25,000. This should prevent the program from funding urban or suburban areas that may be technically considered rural under some definitions, but are in reality, located adjacent to areas that already receive broadband service.

Additionally, my bill prevents any rural area from being funded where a majority of its residential customers already have access to broadband service offered at a price per megabit of speed comparable to the nearest urban area. Under this definition, any area where rural residents are already enjoying affordable high speed broadband service should not be allowed to receive additional Federal funds.

These funds should be saved for the truly needy communities.

My bill also provides language to authorize in statute a rural broadband grant program to be administered by the USDA, together with its rural broadband loan and loan guarantee program.

While the USDA has created its own grant programs to fund certain broadband providers, a formal grant program was never authorized by Congress. By authorizing it, Congress will have more oversight and impose accountability, while keeping the grant program funded at an operational level for many years to come.

Finally, although USDA's inspector general has recommended several reform measures, I believe we should force the agency to implement these changes in order to improve the loan and grant programs. Therefore, my bill requires the USDA to undertake a comprehensive and transparent rulemaking process in response to the recent internal audit.

The FCC has been looking to make more spectrum available for innovative unlicensed wireless uses, including wireless broadband. This new ''unlicensed'' spectrum holds tremendous potential for allowing wireless broadband to be deployed in rural areas. This would be especially helpful in large rural geographic regions where it would be cost prohibitive to build out a broadband infrastructure with wires, cable, or fiber.

Some of this spectrum would come from space made newly available when traditional analog over-the-air TV broadcasters transition to digital transmission by 2009. Other spectrum may be found in narrow gaps between currently existing licensed users that could be utilized by smaller and localized products, such as garage openers, cordless phones, wireless baby monitors, and of course, broadband.

While I support making more spectrum available to new users, I believe we need to do so with clear safeguards in place so that new wireless users will not cause undue interference problems with existing broadcasters, public safety officials, and others that use wireless products such as microphones.

My bill requires the FCC to complete a rulemaking process to make new spectrum available for wireless broadband services in rural areas as soon as practicable. The bill specifically requires the FCC to ensure that new unlicensed wireless users provide engineering testing results to prevent harmful interference problems.

The FCC also has been planning an auction sale of spectrum in the 700 MHz band, which is ideal for wireless broadband use. I support this auction, and I encourage the FCC to conduct it as soon as possible, so that new service providers can enter the wireless broadband market to fill in the gaps in service that wireline providers cannot or will not meet.

However, we have learned from previous FCC auctions that the true value of spectrum depends on who uses it and for what purposes. We also have learned that different carriers will bid in different auctions, depending on the size of the blocks of airwaves available for purchase. Large national wireless carriers will choose to bid on large geographic markets, while smaller or local carriers will bid on smaller market sizes.

For the 700 MHz band, I agree with a bipartisan idea that Senator OLYMPIA SNOWE and Senator BYRON DORGAN proposed in the Senate Commerce Committee. In our view, it makes the most sense to configure the plan for this band to designate up to 12 MHz of paired recovered analog spectrum to be auctioned for smaller geographic licenses.

This will maximize the participation of small, regional, and rural service providers, because these are the most likely entities to provide wireless broadband service in rural areas.

My bill therefore requires the FCC to evaluate its auction plans and to divide some of the frequency allocations into smaller area licenses so that regional and rural wireless companies can compete in the bidding process.

I look forward to working with Senators SNOWE and DORGAN to ensure that the FCC maximizes the value of these public airwaves for the benefit of all Americans, especially those living in rural areas.

As with many States, my State of Illinois has struggled over the past few years with ways to bring universal and affordable broadband to every corner of our State. Many leaders in our State and local governments have studied various proposals, and have sought the guidance of experts in the private sector.

Additionally, telecommunications and cable companies that provide the vast majority of broadband service in the nation today are generally regulated at the state and local levels. Therefore, in our effort to develop a national broadband policy, I think it makes sense for Congress to learn from the varied experiences gained in many states that have tried innovative solutions to encourage or mandate broadband services in their regions.

My bill establishes a task force consisting of experts in Federal, State, and local governments, trade associations, public interest organizations, academic institutions, and other relevant areas, to study best practices for rapid deployment of broadband services in States, particularly those with large unserved rural areas.

The bill requires the task force, within 6 months, to provide to Congress and to each governor a report detailing a comprehensive list of specific measures adopted by State or local governments that have helped provide incentives for

communications carriers to deploy broadband services in areas that lacked such services.

For too long, we have been talking about the need to bring universal and affordable broadband to every corner of our Nation. Yet progress has been too slow. It is time to reengage our national, state, and local policy leaders to focus our attention, and work with the private sector toward achieving this goal.

I urge my colleagues to join me in supporting Broadband for Rural America Act of 2006.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband for Rural America Act of 2006''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) High speed broadband communications is no longer a luxury. It has become a vital service for all Americans, much like water, sewer, gas, and electricity are essential resources for our daily lives.

(2) Broadband infrastructure is critical to community and economic development, by encouraging investment, creating jobs, improving productivity, fostering innovation, and increasing consumer benefits.

(3) Despite the ongoing efforts by traditional communications carriers to expand broadband services, the rate of deployment in America is still far from ideal. Recent reports indicate that America continues to trail other leading industrialized countries, per capita, in the availability and use of broadband communications.

(4) As our Nation falls behind the developed world in broadband access, so, too, are rural residents falling behind city and urban residents. In small towns and rural America, broadband service remains largely non existent. In places where it is available, rural broadband customers often pay more for inferior quality than customers in cities and urban areas.

(5) A national policy is needed to accelerate the deployment of broadband services so that, no matter where they live, every American can have access to affordable and high-quality broadband service as soon as possible.

SEC. 3. PURPOSE.

The purposes of this Act are to encourage the rapid deployment of high quality and affordable high speed broadband service to every corner of our Nation by—

(1) establishing a new source of funding for entities that work to identify unserved regions of the Nation and to address the lack of broadband service in those areas;

(2) reforming the rural broadband loan program to ensure that Federal funds are provided only to qualified entities that will serve truly rural and unserved regions of the Nation, while providing statutory authority and Federal funding for the rural broadband grant program;

(3) making more unlicensed spectrum available for innovative wireless broadband uses that will not cause harmful interference and degradation of service to other wireless services;

(4) encouraging rural, regional, and smaller wireless carriers to enter the wireless broadband market by reconfiguring the size of spectrum auctions into smaller market sizes; and

(5) studying policies and programs adopted by State and local governments that have worked to provide incentives for rapid broadband deployment.

SEC. 4. BROADBAND ACCESS TRUST FUND AND OFFICE OF BROADBAND ACCESS.

(a) ESTABLISHMENT.—

(1) FUND ESTABLISHED.—There is established in the Treasury of the United States the Broadband Access Trust Fund.

(2) OFFICE ESTABLISHED.—

(A) IN GENERAL.—There is established within the Federal Communications Commission the Office of Broadband Access.

(B) DUTIES.—The Office of Broadband Access shall coordinate the use of all resources within the Fund, as such resources relate to the expansion of broadband technology into rural or unserved areas.

(3) DEPOSITS.—The Fund shall consist of—

(A) the amounts appropriated pursuant to subsection (f); and

(B) 1 percent of the proceeds of any auction for any bands of frequencies conducted pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(4) FUND AVAILABILITY.—

(A) APPROPRIATION.—There are appropriated from the Fund such sums as are authorized by the board to be disbursed for grants under this section.

(B) REVERSION OF UNUSED FUNDS.—Any grant proceeds that remain unexpended at the end of the grant period, as determined under subsection (c)(3), shall revert to and be deposited in the Fund.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT.—The Fund shall be administered by the Office of Broadband Access, in consultation with a board of directors comprised of 5 members, appointed by the Chairman of the Federal Communications Commission, with experience in 1 or more of the following fields:

(A) Grant and investment management.

(B) Advanced communications technology.

(C) Rural communications services.

(D) Community-based economic development.

(2) FUNCTIONS.—The board shall—

(A) establish reasonable and prudent criteria for the selection of grant recipients under this section;

(B) determine the amount of grants awarded to such recipients; and

(C) review the use of grant funds by such recipients.

(3) COMPENSATION PROHIBITED; EXPENSES PROVIDED.—The members of the board shall serve without compensation, but may, from appropriated funds available for the administrative expenses of the Federal Communications Commission, receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PURPOSE AND ACTIVITIES OF THE FUND.—

(1) GRANT PURPOSES.—In order to achieve the objectives and carry out the purposes of this section, the Office of Broadband Access is authorized to make grants, from amounts deposited pursuant to subsection (a)(2) and from the interest or other income derived from the Fund—

(A) to study the lack of affordable broadband communications services in particular unserved regions of the nation, particularly in rural areas; and

(B) to take steps toward providing such services to such regions.

(2) GRANT PREFERENCE.—In making grants from the Fund, the Office of Broadband Access shall give preference to eligible individuals or entities that are proposing rural or community-based partnerships to encourage economic development in unserved regions of the nation, particularly in rural areas.

(3) GRANT AVAILABILITY.—Grants from the Fund shall be made available on a single or multi-year basis to facilitate long term planning.

(d) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—The following organizations and entities are eligible to apply for funds under this section:

(A) An agency or instrumentality of a State or local unit of government (including an agency or instrumentality of a territory or possession of the United States).

(B) A nonprofit agency or organization that is exempt from taxes under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).

(C) An institution of higher education.

(D) Any legally organized incorporated organization or other legal entity, including a cooperative, a private corporation, or a limited liability company.

(2) PREFERENCE.—

(A) NONLICENSED ENTITIES.—In determining which legally organized incorporated organizations or other legal entities shall receive grants from the Fund, the Office of Broadband Access shall give preference to those organizations and entities that are not already licensed by the Federal Communications Commission to provide voice, data, video, or other communications or information services.

(B) SECONDARY PRIORITY FOR ALREADY LICENSED ENTITIES.—The Office of Broadband Access shall only award grants from the Fund to those organizations and entities that are already licensed by the Federal Communications Commission to provide voice, data, video, or other communications or information services only after all applications by nonlicensed organizations described in subparagraph (A) have been considered.

(e) PERMISSIBLE USES OF FUNDS.—Amounts made available by grants from the Fund under this section may be used by eligible entities for conducting feasibility studies, mapping, economic analysis, and other activities done to determine—

(1) the reasons for the lack of affordable broadband communications services in particular unserved regions of the nation, particularly in rural areas; and

(2) the scale, scope, and type of broadband services most suitable for each particular unserved area.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $10,000,000 for fiscal year 2007 and each of the 5 succeeding fiscal years.

(g) REPORTS.—

(1) BY GRANT RECIPIENTS.—Each grant recipient shall submit to the Federal Communications Commission and the board a report on the use of the funds provided by the grant.

(2) BY FCC.—

(A) IN GENERAL.—The Federal Communications Commission shall annually submit to Congress a report on the operations of the Fund and the grants made by the Fund.

(B) REQUIRED CONTENT.—The report required under subparagraph (A) shall include—

(i) an identification of the grants made, the recipients thereof, and the planned uses of the amounts made available;

(ii) a financial report on the operations and condition of the Fund; and

(iii) a description of the results of the use of funds provided by grants under this section, including the status of broadband availability in the regions covered by such grants.

(C) INFORMATION REQUIRED.—

(i) IN GENERAL.—The Federal Communications Commission shall revise FCC Form 477 reporting requirements not later than 180 days after the date of enactment of this Act to require broadband service providers to report the following information:

(I) Identification of location where the provider provides broadband service to customers, identified by zip code plus 4 digit location (referred to in this subparagraph as ''service area'').

(II) Percentage of residential households and businesses in each service area that are offered broadband service by the provider, and the percentage of such residential households and businesses that subscribe to each service plan offered.

(III) The average price per megabit of download speed and upload speed in each service area.

(IV) Identification by service area of the provider's broadband service's actual average throughput, and contention ratio of the number of users sharing the same line.

(ii) EXCEPTION.—The Federal Communications Commission may exempt a broadband service provider from the requirements of this subparagraph if the Federal Communications Commission determines that a provider's compliance with the reporting requirements is cost prohibitive, as defined by the Federal Communications Commission.

(D) REPORT.—The Federal Communications Commission shall provide to Congress on an annual basis a report, using available Census Bureau data, containing the following information for each service area that is not served by any broadband service provider;

(i) Population.

(ii) Population density.

(iii) Average per capita income.

(h) REGULATIONS.—The Federal Communications Commission may prescribe such regulations as may be necessary and appropriate to carry out this section.

(i) DEFINITIONS.—As used in this section—

(1) the term ''the Fund'' means the Broadband Access Trust Fund established pursuant to subsection (a); and

(2) the term ''the board'' means the board of directors established pursuant to subsection (b).

SEC. 5. USDA BROADBAND PROGRAM REFORMS.

(a) REAUTHORIZATION.—Section 601(k) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(k)) is amended by striking ''2007'' and inserting ''2012''.

(b) CLARIFICATION OF ELIGIBLE RURAL COMMUNITY.—Section 601(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2)) is amended to read as follows:

''(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not—

''(A) included within the boundaries of any incorporated city, village, borough, or town with a population in excess of 25,000 inhabitants;

''(B) located within 10 miles of any such city, village, borough, or town; and

''(C) an area where a majority of its residential customers have access to broadband service offered at a price per megabit of download speed and upload speed comparable to the nearest urban area.''.

(c) ADDITIONAL REQUIREMENTS FOR ELIGIBLE ENTITIES.—Section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking ''(1) IN GENERAL.—''; and

(B) by striking paragraph (2); and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) demonstrate that any loan or loan guarantee obtained under this section will be used only to furnish, improve, or extend broadband service to those eligible rural communities.''.

(d) COMMUNITY CONNECT GRANT PROGRAM.—Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.) is amended by adding at the end the following:

''SEC. 602. COMMUNITY CONNECT GRANT PROGRAM.

''(a) PURPOSES.—The purposes of this section are—

''(1) to provide financial assistance in the form of grants to eligible applicants that will provide, on a community-oriented connectivity basis, broadband service that fosters economic growth and delivers enhanced educational, health care, and public safety services; and

''(2) to ensure the deployment of broadband service to extremely rural, lower-income communities on a community-oriented connectivity basis.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award a grant to any eligible applicant to provide broadband services in accordance with the provisions of this section.

''(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.

''(c) ELIGIBLE APPLICANT.—To be eligible to obtain a grant under this section, an applicant shall—

''(1) be—

''(A) legally organized as an incorporated organization;

''(B) an Indian tribe or tribal organization, as defined in subsections (b) and (c) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b) and (c));

''(C) a State or local unit of government;

''(D) an institution of higher education; or

''(E) any other legal entity, including a cooperative, a private corporation, or a limited liability company organized on a for-profit or not-for-profit basis;

''(2) have the legal capacity and authority to—

''(A) own and operate the broadband facilities proposed in its application;

''(B) enter into contracts; and

''(C) otherwise comply with applicable Federal statutes and regulations; and

''(3) develop a project that—

''(A) serves an eligible rural community;

''(B) deploys basic broadband service, free of all charges for at least 2 years, to all critical community facilities located within a proposed service area;

''(C) offers basic broadband service to residential and business customers within a proposed service area; and

''(D) provides—

''(i) a community center with at least 10 computer access points within a proposed service area; and

''(ii) broadband service to such centers free of charge for at least 2 years.

''(d) APPLICATION.—

''(1) SUBMISSION.—Each applicant seeking a grant under this section shall submit an application containing—

''(A) any information or documentation required under section 1739.15 of title 7, Code of Federal Regulations; and

''(B) such other information or documentation that the Secretary may require.

''(2) REVIEW AND SCORING OF APPLICATIONS.—The Secretary shall review and score any applications received under this section using the same methods, and in the same manner, as described in sections 1739.16 and 1739.17 of title 7, Code of Federal Regulations.

''(e) USE OF FUNDS.—A grant awarded to an eligible applicant pursuant to this section may be used to—

''(1) construct, acquire, or lease facilities, including spectrum, to deploy broadband service to all participating critical community facilities and all required facilities needed to offer such service to residential and business customers located within a proposed service area;

''(2) improve, expand, construct, or acquire a community center that furnishes free access to broadband service, provided that such community center is open and accessible to area residents before, during, and after normal working hours and on Saturday or Sunday;

''(3) purchase any end user equipment needed to carry out the project of the applicant described in subsection (c)(3);

''(4) pay the operating expenses incurred in providing—

''(A) broadband service to critical community facilities for the first 2 years of operation; and

''(B) training and instruction on how to use such services; and

''(5) purchase any land, building, or building construction needed to carry out the project of the applicant described in subsection (c)(3).

''(f) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—Each eligible applicant shall contribute not less than 15 percent of the grant amount requested in any application.

''(2) FORM.—The matching contribution described in paragraph (1) may be in the following form:

''(A) Cash for eligible grant purposes.

''(B) In-kind contributions for purposes that could have been financed with grant funds under this section. In-kind contributions shall be new or non-depreciated assets with established monetary values. Manufacturers' or service providers' discounts shall not be considered a matching contribution.

''(C) The rental value of space provided within an existing community center, provided that such space is provided free of charge to such applicant, for the first 2 years of operation.

''(D) Salary expenses incurred for any individual operating the community center, for the first 2 years of operation.

''(E) Expenses incurred in operating a community center, for the first 2 years of operation.

''(3) PRIOR COSTS.—Costs incurred by an applicant, or by others on behalf of an applicant, for facilities, installed equipment, or other services rendered prior to submission of a completed application shall not be considered an acceptable use of grant funds under subsection (e) or a matching contribution.

''(4) RENTAL VALUES.—Rental values of space provided, as described in paragraph (1)(C), shall be substantiated by rental agreements documenting the cost of space of a similar size in a similar location.

''(5) REASONABLENESS REVIEW.—Rental values, salaries, and other expenses incurred in operating a community center shall be subject to review by the Secretary for reasonableness in relation to the scope of the applicant's project described in subsection (c)(3).

''(6) OTHER ASSISTANCE.—Any financial assistance from any other Federal source shall not be considered a matching contribution under this section unless there is a Federal statutory exception specifically authorizing the Federal financial assistance to be considered as such.

''(g) OTHER REQUIREMENTS.—Each applicant shall comply with the reporting, oversight, and auditing requirements described in sections 1739.19 and 1739.20 of title 7, Code of Federal Regulations.

''(h) DEFINITIONS.—As used in this section:

''(1) BASIC BROADBAND SERVICE.—The term 'basic broadband service' means the broadband service level provided by an applicant at the lowest rate or service package level for residential or business customers, as appropriate, provided that such service meets the requirements of this section.

''(2) BROADBAND SERVICE.—The term 'broadband service' means providing an information-rate equivalent to at least 200 kilobits/second in the consumer's connection to the network, both from the provider to the consumer (downstream) and from the consumer to the provider (upstream).

''(3) COMMUNITY CENTER.—The term 'community center'—

''(A) means a public building, or a section of a public building with at least 10 computer access points, that is used for the purposes of providing free access to or instruction in the use of broadband service, and is of the appropriate size to accommodate this purpose; and

''(B) may include schools, libraries, or a city hall.

''(4) COMPUTER ACCESS POINT.—The term 'computer access point' means a computer terminal with access to basic broadband service.

''(5) CRITICAL COMMUNITY FACILITIES.—The term 'critical community facilities' means any public school or education center, public library, public medical clinic, public hospital, community college, public university, or any law enforcement, fire, or ambulance station in a proposed service area.

''(6) END USER EQUIPMENT.—The term 'end user equipment' means computer hardware and software, audio or video equipment, computer network components, telecommunications terminal equipment, inside wiring, interactive video equipment, or other facilities required for the provision and use of broadband service.

''(7) RURAL AREA.—The term 'rural area' means any area of the United States that is not—

''(A) included within the boundaries of any incorporated or unincorporated city, village, borough, or town with a population in excess of 25,000 inhabitants; and

''(B) located within 10 miles of any such city, village, borough, or town.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(9) SERVICE AREA.—The term 'service area' means a single community, and may include the unincorporated areas or locally recognized communities, not recognized in the most recent decennial census performed by the Bureau of the Census, located outside and contiguous to the boundaries of such community, in which the applicant proposes to provide broadband service.

''(10) SPECTRUM.—The term 'spectrum' means a defined band of frequencies that will accommodate broadband service.''.

SEC. 6. USDA RULEMAKING.

The Secretary of Agriculture shall initiate and complete a rulemaking to—

(1) consider and adopt, as necessary in the discretion of the Secretary, the recommendations set forth in audit report 09601-4-Te, issued in September 2005, entitled ''Rural Utilities Service Broadband Grant and Loan Programs'' by the Inspector General of the United States Department of Agriculture; and

(2) review and propose recommendations as to how to best coordinate the application process of the broadband loan and loan guarantee program under section 601 of the Rural Electrification Act of 1936 and the Community Connect Grant program under section 602 of such Act, as added by section 2 of this Act.

SEC. 7. UNLICENSED DEVICES FOR RURAL WIRELESS BROADBAND.

(a) COMPLETION OF ORDER.—Not later than 18 months after date of enactment of this Act, the Federal Communications Commission shall issue a final order in the matter of Unlicensed Operation in TV Broadcast Bands, ET Docket No. 04–186.

(b) CONDITIONS.—In completing the final order described in subsection (a), the Federal Communications Commission shall—

(1) permit certified unlicensed devices to use, in non-exclusive terms, unassigned, nonlicensed television broadcast channels between 54 MHz and 698 MHz in rural areas;

(2) protect incumbent certified low power auxiliary stations from harmful interference by requiring certification of unlicensed devices prior to permitting such devices to access or use unassigned, non-licensed television broadcast channels between 54 MHz and 698 MHz in rural areas, and including in the certification proof of successful completion of laboratory and field testing by an independent laboratory demonstrating that unlicensed devices do not cause harmful interference to incumbent certified low power auxiliary stations;

(3) protect incumbent certified low power auxiliary stations from harmful interference by prohibiting certified unlicensed devices from operating on any television broadcast channel between 54 MHz and 698 MHz in rural areas already in use by an incumbent certified low power auxiliary station; and

(4) consider additional ways to protect incumbent certified low power auxiliary stations from harmful interference, such as reserving certain television broadcast channels for exclusive use by incumbent certified low power auxiliary stations.

(c) DEFINITIONS.—As used in this section:

(1) CERTIFIED UNLICENSED DEVICE.—The term ''certified unlicensed device'' means any unlicensed device certified under subsection (b)(2)(D) operating in a fixed location, whose primary purpose is to provide broadband service to rural areas.

(2) INCUMBENT CERTIFIED LOW POWER AUXILIARY STATION.—The term ''incumbent certified low power auxiliary station'' means any certified low power wireless microphone, personal wireless monitor, or other audio auxiliary equipment operating on television broadcast channels between 54 MHz and 698 MHz, used for entertainment, religious, news-gathering, governmental, business, or personal consumer purposes to provide real-time, high-quality audio transmissions over distances of approximately 100 meters.

(3) RURAL AREA.—The term ''rural area'' means any rural service area or rural statistical area, as defined by the Federal Communications Commission.

SEC. 8. SPECTRUM AUCTION FOR RURAL WIRELESS BROADBAND.

Not later than February 1, 2007, the Federal Communications Commission shall initiate a proceeding—

(1) to reevaluate and reconfigure its band plans for the upper 700 MHz band (currently designated Auction 31) and for the unauctioned portions of the lower 700 MHz band (currently designated as Channel Blocks A, B, and E) so as to designate up to 12 MHz of paired recovered analog spectrum (as defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(C)(vi))); and

(2) to reconfigure its band plans to include spectrum to be licensed for small geographic license areas, taking into consideration the desire to promote infrastructure build-out and service to rural and insular areas and the competitive benefits, unique characteristics, and special needs of rural, regional, and smaller wireless carriers.

SEC. 9. PUBLIC-PRIVATE TASK FORCE ON BROADBAND INITIATIVES.

(a) ESTABLISHMENT.—There is established a task force to be known as the ''Rural Broadband Access Task Force'' (referred to in this section as the ''Task Force'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force established under this section shall be composed of 11 members, of whom—

(A) 3 shall be appointed by the President;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 2 shall be appointed by the minority Leader of the Senate;

(D) 2 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—The membership of the Task Force established under this section shall include—

(A) at least 6 members of whom—

(i) all shall be recognized experts in the field of communications;

(ii) 2 shall be employees of the Federal Government;

(iii) 2 shall be employees of State governments; and

(iv) 2 shall be employees of local governments;

(B) at least 1 member who shall be a representative of a consumer or public interest organization;

(C) at least 1 member who shall be a representative of interested trade associations;

(D) at least 1 member who shall be a representative of interested academic institutions; and

(E) at least 2 members all of whom shall be especially qualified to serve on the Task Force by virtue of their education, training, or experience, particularly in the field of rural communications access issues.

(3) CHAIRPERSON.—Each year, the Task Force shall elect a Chairperson from among its members.

(4) VICE CHAIR.—Each year, the Task Force shall elect a Vice Chair from among its members.

(c) DUTIES.—The Task Force shall—

(1) conduct a comprehensive survey of legislative, regulatory, or administrative policies or programs adopted by States to encourage rapid deployment of broadband services;

(2) study policies or programs that have been successful in providing incentives for communications carriers to deploy or expand services in areas that lacked such services before the introduction of such incentives; and

(3) study traditional incentives, such as tax credits or financial subsidies, as well as innovative efforts, including public and private partnership programs and best practices that have worked well in encouraging communications carriers to deploy or expand services in areas that lacked such services, particularly in those States with large unserved rural areas.

(d) REPORT.—Not later than 6 months after all the members of the Task Force have been appointed under subsection (b), the Task Force shall submit a report to Congress and to the governor of each State detailing a comprehensive list of policies and programs adopted by States that have succeeded in providing incentives for communications carriers to deploy or expand services in areas that lacked such services before the introduction of such incentives.

(e) WORKING GROUPS.—

(1) IN GENERAL.—The Task Force may establish such working groups as the Task Force determines necessary in order to assist the Task Force in carrying out this subsection.

(2) MEMBERSHIP.—Any working group established under paragraph (1) may include such members as the Task Force determines necessary, including individuals who were not appointed as a member of the Task Force under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

By Ms. COLLINS (for herself, Mrs. FEINSTEIN, Mr. CORNYN, Ms. MIKULSKI, Mr. LEAHY, and Mr. LIEBERMAN):

S. 3821. A bill to authorize certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, I rise to introduce the Creating Opportunities for Minor League Professionals, Entertainers and Teams through legal Entry—COMPETE—Act. This bill will level the playing field for minor league sports teams that depend on getting the best athletic talent. I thank Senators FEINSTEIN, CORNYN, LIEBERMAN, MIKULSKI, and LEAHY for joining me in introducing this measure.

The core problem we address is that under current law, minor league players who have to use the H–2B visa category face severe visa shortages, while major league players qualify automatically for plentiful P–1 visas.

The H–2B visas are intended for use by industries facing seasonal demands for labor, such as the hospitality and logging industries. However, this type of visa is also used by many talented, highly competitive foreign athletes who are recruited by U.S. teams.

A chronic H–2B visa shortage over the last few years has posed challenges for all industries using the H–2B visa category. In recent fiscal years, including 2006, the 66,000 visa cap was met early in the year. While we were successful last year in crafting a temporary, 2-year fix for the H–2B shortage, this fix will expire at the end of the current fiscal year.

However, solving this problem goes beyond fixing the H–2B visa cap. Minor league players simply do not belong in the same visa category as seasonal workers. There is no rational basis for automatically qualifying major league players for P–1 visas, which are granted to talented athletes, artists, and entertainers, while denying them to minor league players. My amendment would remedy this unfair situation.

The problem of requiring minor league athletes to use the H–2B visa category has posed a particular challenge to those of us in Maine who enjoy cheering on our sports teams. The MAINEiacs, a Canadian junior hockey league team that plays its games in Lewiston, ME, has faced tremendous difficulties obtaining the H–2B visas necessary for the majority of its players to come to the United States to play in the team's first home games.

Last year, due to uncertainty surrounding the availability of H–2B visas at the end of the fiscal year, the team had to reschedule its season home opener and cancel several early season games. This forced the team to schedule make-up games for those normally played in September. The problems created by the visa situation creates an unnecessary hardship for this team, in addition to threatening the revenue the team generates for the city of Lewiston and businesses in the surrounding area.

The Portland Sea Dogs, a Double-A baseball team affiliated with the Boston Red Sox, is another of the many teams that relies on H–2B visas to bring some of its most skilled players to the United States. Thousands of fans come each year to see this team, and others like it across the country, play one of America's favorite sports. Due to the shortage of H–2B visas, however, Major League Baseball reports that, in 2004 and early 2005, more than 350 talented young, foreign baseball players were prevented from coming to the United States to play for minor league teams. These teams have been a traditional proving ground for athletes hoping to make it to the major leagues and players often move from these teams to major league rosters.

Including these highly skilled athletes in the H–2B visa category seems particularly unusual when you consider that major league athletes are permitted to use an entirely different nonimmigrant visa category—the P–1 visa. This visa is available to athletes who are deemed by the Citizenship and Immigration Services to perform at an ''internationally recognized level of performance.'' Arguably, any foreign athlete whose achievements have earned him a contract with an American team would meet this definition.

CIS, however, has interpreted this category to exclude minor and amateur league athletes. Instead, the P–1 visa is typically reserved for only those athletes who have already been promoted to major league sports. Unfortunately, this creates something of a catch-22 for minor league athletes—if an H–2B visa shortage means that promising athletes are unable to hone their skills and prove themselves in the minor leagues, they are far less likely to earn the major league contract required for a P–1 visa.

A simple, commonsense solution would be to expand the P–1 visa category to include minor league and certain amateur-level athletes who have demonstrated a significant likelihood of graduating to the major leagues. Major League Baseball strongly supports the expansion of the P–1 visa category to include professional minor league baseball players. In correspondence to me, the league has pointed out that making P–1 visas available to this group of athletes, teams would be able to make player development decisions based on the talent of its players, without being constrained by visa quotas. The P–1 category, the league believes, is appropriate for minor league players because these are the players that major league clubs have selected as some of the best baseball prospects in the world.

There is no question that Americans are passionate about sports. We have high expectations for our teams and demand only the best from our athletes. By expanding the P–1 visa category, we will make it possible for athletes to be selected based on fair competition in talent and skill, rather the artificial limits of visa availability. In addition, we would reduce some pressure on the H–2B visa category making more of those visas available to the industries that need them.

Mr. President, the inequity of our current policy is clear. Let us take this simple step toward a more rational visa policy.

Mrs. FEINSTEIN. Mr. President, I am introducing today the COMPETE Act of 2006, along with Senators COLLINS and CORNYN.

This is a bill which amends the Immigration and Nationality Act to allow certain minor league athletes and ice skaters to be admitted temporarily into the United States to compete or perform in an athletic league, competition or performance under the same non-immigrant visa category as professional athletes.

The purpose of this legislation is to level the playing field for minor league sports teams that depend on getting the best athletic talent, regardless of where in the world that talent is discovered.

Under current law, minor league players and ice skaters who use the H–2B temporary visa category face severe visa shortages, while major league players qualify for uncapped P–1 temporary visas.

This unfair discrepancy in the law needs to be remedied, and the bill we are introducing today provides a commonsense solution because it allows minor league athletes—whether in baseball, basketball, hockey, or ice skating—who will perform competitively in the United States to apply for a P–1 temporary visa as opposed to an H–2B visa.

By way of background, The H–2B temporary visa category allows U.S. employers in industries with seasonal or intermittent needs to augment their existing labor force with temporary workers or augment their labor force when necessary due to a one-time occurrence which necessitates a temporary increase in workers.

Typically, H–2B workers fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service and processing, and resort and hospitality services.

Additionally, and perhaps what people do not know, is that not only is the

H–2B visa category used by loggers, lifeguards, crab pickers, amusement park employees, hotel and restaurant employees, but it is also used by many talented, highly competitive foreign athletes who are recruited by U.S. teams and theatrical ice skating productions.

A chronic H–28 visa shortage over the last 3 years has posed challenges for all industries using the H–2B visa category. In fiscal years 2004, 2005, and 2006, the 66,000 visa cap has been reached, leaving American teams and the athletes they are recruiting out in the cold.

The COMPETE Act is a solution that not only helps professional American teams, but it also relieves the stress on the H–2B visa program added by a misclassified group.

The reality is that minor league athletes do not belong in the same visa category as seasonal workers. There is no reason major league athletes can't and shouldn't qualify for P–1 visas, which are granted to talented athletes, artists, and entertainers. The COMPETE Act would remedy this unfair situation.

What follows are some examples of how classifying minor leaguers and ice skaters as H–2B workers harms American sports and how it would be better that they be reclassified as other athletes for temporary P–1 visas.

Disney on Ice has seven domestic tours per year, bringing approximately $400,000 to each of the 150 to 170 U.S. cities in which it stops. There are not enough U.S. skaters to fill the roles each production requires, thus the organization relies on foreign skaters to supplement its cast. As the cap on H–28 visas has been consistently reached before the commencement of their training period—(August in Florida—and subsequent touring seasons—September through February or March—they are often short of ice skaters for their productions.

Major League Baseball was unable to bring 350 baseball players to the United States in the 2004 and 2005 seasons as a result of the H–28 visa cap having been met. Promotions of promising young players to the U.S. Minor League affiliates could not be made. Due to the unavailability of visas, signings of Canadian players drafted in baseball's June first-year player draft have declined by 80 percent. Furthermore, clubs who have already signed talented non-U.S. citizens have been prevented from bringing these players to the United States given that the H–2B cap has been reached in past years.

National Hockey League recruits from independent minor league teams, such as the American Hockey League, Central Hockey League, and the East Coast Hockey League, for foreign players to fill its ranks. Most minor hockey league teams' rosters are filled with a majority of foreign national professional athletes. This is evident by the number of slots that are requested each year by the minor leagues on their temporary labor certification applications filed with the Labor Department. For instance, the AHL requests approximately 21 player slots out of a roster of approximately 26 players; the other leagues are similarly situated where the number of requests for slots on temporary labor certifications is usually in the ballpark of 80 percent of the roster.

Further, hockey leagues usually have a few if not more clubs that are located in Canada. Of course these players do not need H–2Bs to play for a Canadian team, but in the event that they are traded during the season to a U.S. team, the acquiring team would have to file an H–2B. This frequently presents problems when the numbers have been exhausted as the trade becomes dependent upon the availability of a visa number and not the professional needs of the team. In addition, players are signed throughout the season; this can also prevent teams from signing players if the numbers have been exhausted. This is particularly true at the end of the season—usually March or April 1—when the numbers have been exhausted and the need to sign players for playoffs and finals increases.

National Basketball Association created a developmental league in 2001. The NBA Development League, or D-League, has functioned both as a feeder system for the NBA, whose teams annually call up players to fill out NBA rosters beginning in January and, commencing with the 2005–06 season, as a place where inexperienced NBA Players, within their first two seasons, may be assigned to get additional playing time. The D-League, currently comprised of 12 teams across the country, signs and recruits the best basketball athletes from around the world who are not playing in the NBA. On average, international players comprise approximately 10 percent of active D-League rosters, which currently stand at 10 players per team. The H–2B cap has prevented the D-League from being able to sign a significant number of qualified international players during each of the past two seasons.

So a simple, commonsense solution would be to expand the P–1 visa category to include minor league and certain amateur-level athletes who have demonstrated a significant likelihood of graduating to the major leagues. This is what the COMPETE Act would do.

Major League Baseball, the National Basketball Association, the National Hockey League, and Feld Entertainment, which owns Disney on Ice, all support the expansion of the P–1 visa category to include minor league players and ice skaters.

Americans love their sports teams and want to see the highest caliber athletes competing or performing. By expanding the P–1 visa category, we will make it possible for athletes to be selected based on talent and skill rather than visa availability.

In addition, we would reduce some pressure on the H–28 visa category making more of those visas available to the industries that need them.

I am pleased to be joined by Senators COLLINS and CORNYN, as well as MIKULSKI, LEAHY, and LIEBERMAN, in introducing the COMPETE Act of 2006.

By Mr. OBAMA:

S. 3822. A bill to improve access to and appropriate utilization of valid, reliable and accurate molecular genetic tests by all populations thus helping to secure the promise of personalized medicine for all Americans; to the Committee on Finance.

Mr. OBAMA. Mr. President, I rise today to introduce the Genomics and Personalized Medicine Act of 2006. This bill will expand and accelerate scientific advancement in the field of genomics, which is already beginning to change the paradigm of medical practice as we know it and will have profound implications for health and health care in this Nation.

Almost 150 years ago, Gregor Mendel made history when he established the Laws of Heredity, which detailed his early knowledge about the fundamentals of inheritance. As has happened so many times throughout history, Mr. Mendel's fellow scientists didn't fully understand, support or necessarily agree with his hypotheses on genes, specifically how they are transmitted from one generation to the next, and how they help to define who we are. But he persevered—growing, observing and experimenting on 10,000 pea plants for almost a decade—and we know now that his ideas were right.

I mention Mr. Mendel not just because he was an early pioneer in the field of genetics, and is considered by many to be the father of genetics, but also because he had vision, intellectual curiosity, courage to think independently and question the status quo, and of course tenacity, all of which ultimately opened the door to a scientific revolution.

Since that time, our knowledge about genetics has dramatically increased. We have unlocked many of the mysteries about DNA and RNA, their structure and function, and how their code is translated into the proteins that make up the tissues and organs of the human body. Researchers have also made discoveries about DNA replication, and genetic recombination and regulation, just to name a few, and have developed the necessary technologies to do all of this work.

This knowledge isn't just sitting in books on the shelf. We have used these research findings to pinpoint the causes of many diseases, such as sickle cell anemia, cystic fibrosis, and chronic myelogenous leukemia. Moreover, scientists have used genetic information to develop several treatments and therapies.

We have made so many achievements and come a long way in our understanding and application of genetics

knowledge. And yet we are just beginning to realize the full potential of this science to predict the onset of disease, diagnose earlier, and develop therapies that can treat or cure Americans from so many afflictions.

Just 3 years ago, scientists at the National Institutes of Health and the Department of Energy reached another major landmark, with the completion of the sequencing of the entire human genome, described by many as the Holy Grail of biology.

The completion of the Human Genome Project, HGP, has paved the way for a more sophisticated understanding of disease causation. HGP has expanded focus from the science of genetics, which refers to study of single genes, to genomics, which describes the study of all the genes in an individual, as well as the interactions of those genes with each other and with that person's environment.

We know that all human beings are 99.9 percent identical in genetic makeup, but differences in the remaining 0.1 percent hold important clues about the causes of disease and response to drugs. Simply put, the study of genomics will help us learn why some people get sick and others do not and will allow us to use this information to better prevent and treat disease.

The relatively new field of genomics is the key to the practice of personalized medicine. Personalized medicine is the use of genomic and molecular data to better target the delivery of health care, facilitate the discovery and clinical testing of new products, and help determine a patient's predisposition to a particular disease or condition. Personalized medicine represents a revolutionary and exciting change in the fundamental approach and practice of medicine

Pharmacogenomics—the study of how genes affect a person's response to drugs—is a critical component of personalized medicine. Even so-called blockbuster drugs are typically effective in only 40 to 60 percent of patients who take them. Other studies have found that up to 15 percent of hospitalized patients experience a serious adverse drug reaction, resulting in more than 100,000 deaths each year. Pharmacogenomics has the potential to dramatically increase the effectiveness and safety of drugs, both of which are major health care concerns.

We have a few examples already of how pharmacogenomics research has helped to save lives. For example, the chemotherapy Purinethol is a lifesaver for kids with leukemia, but in 11 percent of cases, patients suffer severe, sometimes fatal, side effects. In the 1990s, researchers identified the gene variant that prevents affected patients from properly breaking down Purinethol, allowing doctors to screen patients and adjust dosages for safer use of the drug.

Herceptin is a breast cancer drug that initially failed in clinical trials. However, researchers discovered that 1 in 4 breast cancers have too many copies of a certain gene that helps cells grow, divide, and repair themselves. Extra copies of this gene cause uncontrolled and rapid tumor growth. As it turns out, Herceptin is an effective drug for patients with this type of cancer, with significantly improved survival for affected women.

Our Federal agencies have shown leadership in this area, as have many of our private sector partners. I have introduced the Genomics and Personalized Medicine Act today to support their efforts and to encourage them to do even more and do it faster. Realizing the promise of personalized medicine will require: continued Federal leadership and agency collaboration; expansion and acceleration of genomics research; a capable genomics workforce; incentives to encourage development of genomic tests and therapies; and greater attention to the quality of genetic tests, direct-to-consumer advertising, and use of personal genomic information.

The Genomics and Personalized Medicine Act of 2006 will address each of these issues. The bill requires the Secretary of Health and Human Services to establish the Genomics and Personalized Medicine Interagency Working Group to expand and accelerate genomics research, and application of findings from such research, through enhanced communication, collaboration and integration of relevant activities.

Genetic and genomics research will be expanded to increase the collection of data that will advance both fields. The Secretary will also develop a plan for a national biobanking research initiative and a national distributed database, and provide support for local biobanking initiatives.

This bill requests that the Administrator of the Health Resources and Services Administration support efforts to recruit and retain health professionals in the genomics workforce through educational and research opportunities, financial incentives, and modernization of training programs. In addition, the Secretary will promote initiatives to increase the integration of genetics and genomics into all aspects of medical and public health practice, with specific focus on training and guideline development for providers without expertise or experience in the field of genomics.

A financial incentive is included to encourage the development of companion diagnostic tests. Specifically, this Act provides a 100-percent tax credit for research and development costs associated with companion diagnostic tests. This bill also requests the National Academies of Science to formally study this issue in order to provide expert guidance about the level of incentives and potential approaches to really move this area forward.

The safety, efficacy, and availability of information about genetic tests, including pharmacogenetic and pharmacogenomics tests, is another focus of this bill. The Secretary will contract with the Institute of Medicine to conduct a study and make recommendations regarding Federal oversight and regulation of genetic tests. After this study is complete, the Secretary will develop a decision matrix to help determine which types of tests require review and the level of review needed for such tests as well as the responsible agency. The Secretary will also establish a specialty area for molecular and biochemical genetics tests at CMS and direct a review the practice of direct-to-consumer marketing.

Last but not least, the bill includes a sense of the Senate regarding genetic nondiscrimination and privacy. The Genetic Information Nondiscrimination Act of 2005, which passed the Senate with a vote of 98 to 0 in February of 2005, contained a number of important provisions to protect the use of personal genetic information and prevent discrimination based on such information. This section reaffirms the importance and the necessity of that act for the responsible advancement of personalized medicine.

Mr. President, we stand at this new frontier of personalized medicine, and like Gregor Mendel, we must explore and test the hypotheses and innovations in the area of genomics that can protect and promote our health. Genomics holds unparalleled promise for public health and for medicine, and the Genomics and Personalized Medicine Act of 2006 will help us to fulfill this promise. I urge my colleagues to support me in passing this critical legislation.

By Mr. DEWINE:

S. 3823. A bill to amend the Americans with Disabilities Act of 1990 and the Age Discrimination in Employment Act of 1967 to provide a means to combat discrimination on the basis of age or disability, by conditioning a State's receipt or use of Federal financial assistance on the State's waiver of immunity from suit for violations under such acts; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I am pleased to introduce the Civil Rights Restoration Act of 2006. Today, there is a serious loophole in our Nation's civil rights laws. If you are the victim of age or disability discrimination and you work in the private sector, you can sue your employer in Federal court for money damages. If, however, you work for one of the States, you cannot sue in Federal court for money damages under either the Age Discrimination in Employment Act, ADEA, or the Americans with Disabilities Act, ADA.

This loophole is not the result of anything that we have done in Congress. In fact, when we passed the ADEA and the ADA, we clearly provided that the States, just like private entities, cannot discriminate on the basis of age or disability. And, we said that if they do, they can be sued for

money damages in Federal court. In our view, the right of an individual to be free from discrimination on the basis of age or disability did not depend on where one works.

Instead, this loophole was created by the Supreme Court. In several recent decisions, the Supreme Court has reinterpreted the 11th amendment to the Constitution and severely limited Congress's power to subject States to lawsuits under section 5 of the 14th amendment. In Kimel v. Florida Board of Regents, 528 U.S. 62, 2000, for instance, the Court held that Congress lacks the power to subject States to suit for money damages under the ADEA. In Board of Trustees of the University of Alabama v. Garrett, 531 U.S. 356, 2001, the Court again held that Congress lacked the power to subject States to suit for money damages, this time under title I of the ADA.

Although individuals can still sue the States for injunctive relief, the Supreme Court's restriction on suits for money damages has taken away an essential tool for the victims of discrimination. As one witness explained during hearings on the ADA, ''civil rights laws depend heavily on private enforcement.'' ''[D]amages are essential to provide private citizens a meaningful opportunity to vindicate their rights. Attempts to weaken the remedies available under the ADA are attacks on the ADA itself, and their success would make the ADA an empty promise of equality.''

Unfortunately, by restricting the ability of individuals to sue for money damages, the Garrett and Kimel decisions have severely limited the ''promise of equality'' guaranteed by the ADA and the ADEA. Lawsuits for money damages are the primary means for private individuals to obtain redress for discrimination. They promote deterrence and provide an important way for the Federal Government to enforce antidiscrimination laws. By eliminating the ability of State employees to sue their employers for such damages, the Supreme Court's decisions in Kimel and Garrett have made enforcement of these civil rights laws more difficult.

In addition, the Garrett and Kimel decisions have created a legal regime that gives State employees fewer rights than other employees covered by the ADA and the ADEA. At present, employees of local governments and employees in the private sector are entitled to sue in Federal court for money damages for violations of the ADA or the ADEA. For the more than 2,500,000 individuals who work for the States, however, such relief is no longer available.

Finally, the Garrett and Kimel decisions themselves are hardly a model of clarity. In fact, several scholars have said that they find them to be inconsistent with prior case law, at odds with the clear language of the Constitution, disrespectful of Congress's role in our system of government, and insensitive to the plight of those who are the victims of discrimination.

In my opinion, Chairman SPECTER of the Judiciary Committee put it well when he referred to these cases as ''inexplicable decisions.'' During the confirmation hearing for Chief Justice Roberts, Chairman SPECTER said that the test that emerges from these Supreme Court decisions ''has no grounding in the Constitution, no grounding in the Federalist Papers, no grounding in the history of the country, [and] comes out of thin air[.]''

I happen to agree with him. In my view, Garrett and Kimel were wrongly decided. And, they should be overturned.

My bill will do just that. The Civil Rights Restoration Act of 2006 would provide that any State that receives Federal financial assistance must allow plaintiffs the ability to sue the State for money damages in Federal court if that State violates the terms of the ADEA or the ADA. Of course, those plaintiffs must meet all the other requirements to bring such a suit. My bill does not otherwise change the substance of the ADA or ADEA, and it does not guarantee an outcome. It merely gives the victims of discrimination access to federal courts so that they may seek the relief to which they are otherwise entitled. In other words, it will give the victims of age and disability discrimination the same rights that we intended to give them when we first passed the ADEA and the ADA.

This is a simple bill with a simple purpose: it closes a loophole created by the Supreme Court; it re-establishes the original intent of the ADA and the ADEA; and it restores to the victims of discrimination the rights to which they have long been entitled. I am proud to introduce the Civil Rights Restoration Act of 2006, and I ask my colleagues to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Civil Rights Restoration Act of 2006''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) For over 30 years, Congress has outlawed employment discrimination by State employers. In 1974, in the face of pervasive age discrimination by State and other employers, Congress amended the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) (referred to in this Act as the ''ADEA'') to outlaw age discrimination by such employers. In 1990, Congress passed the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (referred to in this Act as the ''ADA'') to provide a ''clear and comprehensive national mandate'', as described in section 2(b)(1) of that Act (42 U.S.C. 12101(b)(1)), to eliminate discrimination against individuals with disabilities, even when that discrimination came at the hands of States, including State employers.

(2)(A) Many years have passed since the enactment of those laws, but discrimination on the basis of age or disability remains a serious problem in the United States.

(B) Discrimination has invidious effects on its victims, the workforce, the economy as a whole, and government revenues. Discrimination on the basis of age or disability—

(i) increases the risk of unemployment among older workers or individuals with disabilities, who may, as a result of the discrimination, be forced to depend on government programs;

(ii) adversely affects the morale and productivity of the workforce;

(iii) perpetuates unwarranted stereotypes about the abilities of older workers or individuals with disabilities, thus reducing the effectiveness of government programs promoting nondiscrimination and integration; and

(iv) prevents the best use of both public and private resources.

(3) Since the passage of the ADA and the ADEA, private civil suits by the victims of discrimination have been an essential tool in combating illegal discrimination. As one witness explained during hearings on the legislation that became the ADA, ''civil rights laws depend heavily on private enforcement''. ''[D]amages are essential to provide private citizens a meaningful opportunity to vindicate their rights. Attempts to weaken the remedies available under the ADA are attacks on the ADA itself, and their success would make the ADA an empty promise of equality.''. Field Hearing on Americans with Disabilities Act, Before the Subcommittee on Select Education of the House Committee on Education and Labor, 101st Cong. 68 (1989) (statement of Mr. Howard Wolf).

(4) In recent years, however, the Supreme Court has created a serious loophole in the ADA and the ADEA, weakening their ''promise of equality''. In Kimel v. Florida Board of Regents, 528 U.S. 62 (2000), for instance, the Supreme Court held that Congress lacked the power to subject States to suit for money damages under the ADEA. In Board of Trustees of the University of Alabama v. Garrett, 531 U.S. 356 (2001), the Court again held that Congress lacked the power to subject States to suit for money damages, this time under title I of the ADA (42 U.S.C. 12111 et seq.).

(5) As a result of those decisions, State employees who are victimized by discrimination on the basis of age or disability cannot sue in Federal court for money damages to vindicate their Federal rights. Those decisions have, in turn, had 2 unfortunate consequences.

(6) First, they have undermined the enforcement of the ADA and the ADEA. Lawsuits for money damages are the primary means for private individuals to obtain redress for discrimination. In addition, lawsuits for money damages promote deterrence and provide an important way for the Federal Government to enforce antidiscrimination laws. By eliminating the ability for State employees to sue their employers for such damages, the Supreme Court's Kimel and Garrett decisions have made enforcement of these civil rights laws more difficult.

(7) Second, they have created a legal regime that gives State employees fewer rights than other employees covered by the ADA and the ADEA. At present, employees of local governments and employees in the private sector are entitled to sue in Federal court for money damages for violations of the ADA or the ADEA. For the more than 2,500,000 individuals who work for the States, however, such relief is no longer available.

(8) Although most States have laws in effect that bar discrimination on the basis of age or disability, those laws are insufficient to provide redress for those individuals who are subjected to discrimination by State employers or agencies.

(9) A few States apply the doctrine of sovereign immunity to completely bar State employees from suing in State court for age discrimination. In several States, it is still unclear whether State law claims can proceed in State court for age discrimination or whether those claims are barred by sovereign immunity. Finally, there are many States that severely limit or restrict the kinds of remedies or monetary relief available to State employees who bring suits for discrimination on the basis of age.

(10) The same problems exist with State laws regarding disability discrimination. In fact, one recent analysis has shown that there are significant gaps in the coverage and remedies available under State laws outlawing discrimination.

(11) Thus, while State laws are important in trying to stem discrimination on the basis of age or disability, they are currently inadequate to close the loophole created by the Kimel and Garrett decisions.

(12) In the years since the Kimel and Garrett decisions, many States have also challenged the constitutionality of title II of the ADA (42 U.S.C. 12131 et seq.). These challenges have forced individuals with disabilities into extensive litigation about sovereign immunity when they seek redress for disability discrimination in such fundamental areas as access to the courts, access to community-based services, access to State-sponsored health insurance, access to public transportation, access to handicapped parking, access to mental health services, and access to public education. The Supreme Court has issued several decisions that invite even more litigation. In Tennessee v. Lane, for instance, the Court held that, under the particular facts of that case, a plaintiff could sue the State for money damages under title II of the ADA, even though the Court, in the Garrett case, had barred a claim for such damages under title I of that Act (42 U.S.C. 12111 et seq.) Tennessee v. Lane, 541 U.S. 509 (2004).

(13) After the Lane decision, some claims against States are permitted to proceed under the ADA, while others are not. This has made it extremely difficult for the victims of discrimination, States, and Congress to determine precisely when States are subject to suit under the ADA and when they are not. The confusion has spawned a significant amount of litigation in the lower Federal courts. This jurisprudence has even caused the Chairman of the Committee on the Judiciary of the Senate, Senator Arlen Specter, to condemn the Court's recent decisions as ''inexplicable''.

(14) The Constitution provides Congress with the power to enact legislation—

(A) to clarify that, despite the Supreme Court's decisions in the Kimel and Garrett cases, the States are subject to suit just like other entities when the States violate the ADA and the ADEA; and

(B) to end the confusion created by the Court's decision in the Lane case.

(15) Under section 8 of article I of the Constitution, ''The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States''.

(16) Congress' power under this language, known as the Spending Clause, is well-established. Under this Clause, Congress has the power to require the States to abide by certain conditions in exchange for receiving Federal financial assistance. This authority has been recognized by the Supreme Court repeatedly through the years and reaffirmed recently. United States v. Butler, 297 U.S. 1 (1936) (declaring that Congress may exert authority through its spending power); South Dakota v. Dole, 483 U.S. 203 (1987) (upholding condition requiring the establishment of a drinking age of 21 years in exchange for the receipt of Federal highway dollars). In fact, the Supreme Court has specifically held that Congress may require a State, as a condition of receiving Federal financial assistance, to waive its immunity from suit for violations of Federal law. College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999).

(17) Congress has previously used its spending power to require States to waive their immunity from suit in exchange for receiving Federal financial assistance. For instance, the provisions of section 1003 of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7) provide that a State shall not be immune from suit under the 11th amendment for violations of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). At least one court, however, has suggested that those provisions do not apply to the ADA or the ADEA. Brown v. Washington Metro Area Transit Authority, No. DKC 2005–0052, 2005 U.S. Dist. LEXIS 16881 (D. Md. 2005).

(18) By requiring States to waive their immunity from suit under the ADA and the ADEA in exchange for receiving Federal assistance, the Federal government can ensure that Federal dollars are not ''frittered away'' on unlawful discrimination. Such a conditional waiver will help Congress ''protect the integrity of the vast sums of money distributed through Federal programs''. Sabri v. United States, 541 U.S. 600 (2004). ''Simple justice requires that public funds, to which all taxpayers . . . contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in . . . discrimination''. Lau v. Nichols, 414 U.S. 563 (1974). This simple principle applies whether the discrimination is based on race, as in the Lau case, or age, or disability, as in Barbour v. Washington Metro Area Transit Authority, 374 F.3d 1161 (D.C. Cir. 2004).

(19) Such a conditional waiver does not coerce a State in any way. The Supreme Court has recognized that a State's voluntary waiver of its 11th amendment right is constitutional. College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999) (citing Clark v. Barnard, 108 U.S. 436 (1883)). The Court has explicitly recognized that a State's acceptance of Federal funds constitutes a knowing agreement to a congressionally-imposed condition on the funds. Thus, while Congress may not compel States to waive their immunity granted under the 11th amendment, a voluntary State waiver condition is wholly permissible. Alden v. Maine, 527 U.S. 706 (1999).

(20) The Kimel and Garrett decisions frustrate the ability of the ADA and the ADEA to protect individual rights and remedy violations of Federal law. In the wake of those decisions, and in recognition that State laws may be insufficient to protect against discrimination on the basis of age or disability, it is essential to require that States waive their immunity from suit under the ADA and the ADEA for those programs or activities receiving Federal financial assistance.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide to any State employee or person aggrieved by any program or activity that receives Federal financial assistance the right to sue the State for money damages for any violation of the ADA or the ADEA; and

(2) to provide that a State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by any employee or person aggrieved by that program or activity for any violation of the ADA or the ADEA.

SEC. 4. ABROGATION OF STATE SOVEREIGN IMMUNITY.

(a) AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following:

''(g) WAIVER OF SOVEREIGN IMMUNITY.—

''(1) WAIVER.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by any employee or person aggrieved by that program or activity for equitable, legal, or other relief authorized by or through this Act.

''(2) ABROGATION FOR CONSTITUTIONAL VIOLATION.—In addition to the abrogation of sovereign immunity already accomplished by this Act, a State's sovereign immunity, under the 11th amendment to the Constitution or otherwise, is abrogated for any suit brought by any employee or person for equitable, legal, or other relief authorized by or through this Act, for conduct that violates the 14th amendment (including the constitutional rights incorporated in the 14th amendment) and that also violates this Act.

''(3) DEFINITIONS.—In this subsection:

''(A) PROGRAM OR ACTIVITY.—

''(i) IN GENERAL.—The term 'program or activity' has the meaning given the term in section 309 of the Age Discrimination Act of 1975 (42 U.S.C. 6107).

''(ii) OPERATIONS INCLUDED.—The term includes any operation carried out, funded, or arranged by an entity described in clause (i) or (ii) of section 309(4)(A) of such Act (42 U.S.C. 6107(4)(A)) that receives Federal financial assistance, even if the entity does not use the Federal financial assistance for the operation.

''(B) RECIPIENT.—A State shall be considered to receive Federal financial assistance for a program or activity if the program or activity—

''(i) receives the assistance from an intermediary; and

''(ii) is the intended recipient under the statutory provision through which the intermediary receives the assistance.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to suggest that, for purposes of this subsection or title III of such Act—

''(i) the term 'program or activity' would not include the operation described in subparagraph (A)(ii), in the absence of this paragraph; or

''(ii) a State described in subparagraph (B) would not be considered to receive Federal financial assistance for a program or activity, in the absence of this paragraph.''.

(b) TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following:

''(c) WAIVER OF SOVEREIGN IMMUNITY.—

''(1) WAIVER.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by any employee or

person alleging a violation of this title (including regulations promulgated under section 106) or section 503, or otherwise aggrieved, by that program or activity for equitable, legal, or other relief authorized by or through this Act or section 1977A of the Revised Statutes (42 U.S.C. 1981a).

''(2) ABROGATION FOR CONSTITUTIONAL VIOLATION.—In addition to the abrogation of sovereign immunity already accomplished by section 502, a State's sovereign immunity, under the 11th amendment to the Constitution or otherwise, is abrogated for any suit brought by any employee or person for equitable, legal, or other relief authorized by or through this Act or section 1977A of the Revised Statutes (42 U.S.C. 1981a), for conduct that violates the 14th amendment (including the constitutional rights incorporated in the 14th amendment) and that also violates this title (including regulations promulgated under section 106) or section 503.

''(3) DEFINITIONS.—In this subsection:

''(A) PROGRAM OR ACTIVITY.—

''(i) IN GENERAL.—The term 'program or activity' has the meaning given the term in section 504(b) of the Rehabilitation Act of 1973 (29 U.S.C. 794(b)).

''(ii) OPERATIONS INCLUDED.—The term includes any operation carried out, funded, or arranged by an entity described in subparagraph (A) or (B) of section 504(b)(1) of such Act (29 U.S.C. 794(b)(1)) that receives Federal financial assistance, even if the entity does not use the Federal financial assistance for the operation.

''(B) RECIPIENT.—A State shall be considered to receive Federal financial assistance for a program or activity if the program or activity—

''(i) receives the assistance from an intermediary; and

''(ii) is the intended recipient under the statutory provision through which the intermediary receives the assistance.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to suggest that, for purposes of this subsection or such section 504—

''(i) the term 'program or activity' would not include the operation described in subparagraph (A)(ii), in the absence of this paragraph; or

''(ii) a State described in subparagraph (B) would not be considered to receive Federal financial assistance for a program or activity, in the absence of this paragraph.''.

(c) TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 203 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(2) by adding at the end the following:

''(b) WAIVER OF SOVEREIGN IMMUNITY.—

''(1) WAIVER.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by any employee or person alleging a violation of this title (including regulations promulgated under section 204, 229, or 244) or section 503, or otherwise aggrieved, by that program or activity for equitable, legal, or other relief authorized by or through this Act.

''(2) ABROGATION FOR CONSTITUTIONAL VIOLATION.—In addition to the abrogation of sovereign immunity already accomplished by section 502, a State's sovereign immunity, under the 11th amendment to the Constitution or otherwise, is abrogated for any suit brought by any employee or person for equitable, legal, or other relief authorized by or through this Act, for conduct that violates the 14th amendment (including the constitutional rights incorporated in the 14th amendment) and that also violates this title (including regulations promulgated under section 204, 229, or 244) or section 503.

''(3) DEFINITIONS.—In this subsection:

''(A) PROGRAM OR ACTIVITY.—

''(i) IN GENERAL.—The term 'program or activity' has the meaning given the term in section 504(b) of the Rehabilitation Act of 1973 (29 U.S.C. 794(b)).

''(ii) OPERATIONS INCLUDED.—The term includes any operation carried out, funded, or arranged by an entity described in subparagraph (A) or (B) of section 504(b)(1) of such Act (29 U.S.C. 794(b)(1)) that receives Federal financial assistance, even if the entity does not use the Federal financial assistance for the operation.

''(B) RECIPIENT.—A State shall be considered to receive Federal financial assistance for a program or activity if the program or activity—

''(i) receives the assistance from an intermediary; and

''(ii) is the intended recipient under the statutory provision through which the intermediary receives the assistance.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to suggest that, for purposes of this subsection or such section 504—

''(i) the term 'program or activity' would not include the operation described in subparagraph (A)(ii), in the absence of this paragraph; or

''(ii) a State described in subparagraph (B) would not be considered to receive Federal financial assistance for a program or activity, in the absence of this paragraph.''.

SEC. 5. EFFECTIVE DATE.

(a) AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—

(1) IN GENERAL.—With respect to a particular program or activity, paragraphs (1) and (3) of section 7(g) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)) apply to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity. Section 7(g)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(g)(2)) applies to all civil actions pending on that date of enactment or filed thereafter.

(2) PROGRAM OR ACTIVITY; RECEIVES FEDERAL FINANCIAL ASSISTANCE.—The definition and rule specified in subparagraphs (A) and (B) of section 7(g)(3) of such Act (29 U.S.C. 626(g)(2)) shall apply for purposes of this subsection.

(b) AMERICANS WITH DISABILITIES ACT OF 1990.—

(1) IN GENERAL.—With respect to a particular program or activity, paragraphs (1) and (3) of section 107(c) and paragraphs (1) and (3) of section 203(b) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(c), 12133(b)) apply to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity. Sections 107(c)(2) and 203(b)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(c)(2), 12133(b)(2)) apply to all civil actions pending on that date of enactment or filed thereafter.

(2) PROGRAM OR ACTIVITY; RECEIVES FEDERAL FINANCIAL ASSISTANCE.—The definition and rule specified in subparagraphs (A) and (B) of section 107(c)(3) of such Act (42 U.S.C. 12117(c)(3)) shall apply for purposes of this subsection.

By Mr. BURNS (for himself, Mr. FRIST, Mr. DEWINE, Mr. ALLARD, Mr. COLEMAN, Mr. SMITH, and Mr. ALLEN):

S. 3825. A bill to end the flow of methamphetamine and precursor chemicals coming across the border of the United States; to the Committee on the Judiciary.

Mr. BURNS. Mr. President, I rise today because, despite the heroic efforts of law enforcement agencies in Montana and elsewhere around the country, the use of methamphetamine continues to rise. In the Senate, we have passed legislation to fund efforts to go after domestic production of meth—from provisions of the USA PATRIOT Act, which restricted the sale of pseudoephedrine, to funds for the cleanup of meth labs. While law enforcement officials report that these efforts are in fact reducing the production of meth within our borders, they also tell me that foreign-produced meth is being imported to fill the supply void.

For this reason, I have introduced the ''Methamphetamine Trafficking Prevention Act of 2006'' in order to bring additional Federal resources to bear on this problem. I want to thank my colleagues, Senate Majority Leader FRIST, Senator DEWINE, Senator ALLARD, Senator COLEMAN, Senator ALLEN and Senator SMITH for joining me in sponsoring this legislation. The United States shares around 4,000 miles of border with Canada and almost 2,000 miles with Mexico. Controlling what comes across these borders must be a top priority for national security.

A report recently released by the President's Office of National Drug Control Policy, the Department of Justice, and the Department of Health and Human Services had this to say:

> The most urgent priority of the Federal Government toward reducing the supply of methamphetamine in the Untied States will be to tighten the international market for chemical precursors, such as pseudoephedrine and ephedrine, used to produce the drug. Most of the methamphetamine used in America—probably between 75 and 85 percent—is made with chemical precursors that are diverted at some point from the international stream of commerce . . . Although domestic enforcement continues to be a priority, the impact of State laws controlling retail access to precursors, together with Federal, State, and local enforcement efforts, has had a significant impact on the domestic production of methamphetamine. As a result, a larger proportion of the methamphetamine consumed in the United States is now coming across the border as a final product . . .

Meth trafficking has quickly adapted to increased domestic efforts to stem production and the need for an international solution is clear.

This legislation will provide an additional $15 million for the Department of Justice's Meth Hot Spots Program for the creation of ''Border Technology Grants'' to support technology used to detect meth and substances used to make meth on the border through aerial surveillance and to find meth labs around the border with hyperspectral sensors. Another $5 million will be provided to the Drug Enforcement Agency for trace chemical detectors to be used

on U.S. borders. These sensors will also assist in locating explosive devices.

The international nature of meth trafficking makes Federal action necessary, but the United States cannot act alone. This legislation will also coordinate Federal drug enforcement efforts with foreign counterparts in order to devise a strategy to fight meth production across national borders. Officials from the U.S. Trade Representative will discuss meth trafficking with trading partners in multi- and bi-lateral negotiations in order to curb the shipment of this dangerous substance.

The impacts of the meth crisis are felt nationwide. In Montana, I have seen first-hand the consequences of meth addiction on individuals, their families, and communities. Nowhere are these problems more serious than on Indian Reservations. In Montana, there are several reservations on or near the Canadian border. While Montana's law enforcement has done a good job shutting down meth labs in Montana, the flow of meth from Canada and Mexico has more than replaced domestic meth production. This bill would require the Department of Justice to report to Congress the problems faced on these reservations with respect to meth abuse and trafficking.

It is time to take the response to this crisis to a new—international—level and I encourage my colleagues to support these efforts.

By Mr. MENENDEZ:

S. 3826. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income military pay received by a member of a reserve component of the Armed Forces of the United States who is called to active duty; to the Committee on Finance.

Mr. MENENDEZ. Mr. President, over the past few decades, our country has seen a major shift in the way that our Reserve component has been used. Traditionally, National guardsmen and reservists have supplemented our active-duty troops at times of a major war or conflict. But as America faces ever-increasing military challenges, we see these forces now replacing active duty troops in operations around the world.

Since September 11, a large number of our Reserve component has been called to active duty, and it is expected to remain that way for the foreseeable future. Our Nation not only relies on the National Guard during times of war, but during crises and disasters within our borders. In my home State of New Jersey, we have witnessed the critical role the Guard plays in supporting our first responders and assisting with domestic emergencies. The Guard immediately responded to the 9/11 attacks, provided relief in the aftermath of the hurricanes on the gulf coast, and aided New Jerseyans after the flooding in our State.

As our Nation continues to rely on the efforts of National Guard members and reservists, it is imperative that we provide them and their families the support they need at home. Unfortunately, many married Guard members and reservists on active duty lose their income from their civilian jobs when they are activated. It is unconscionable that we would make these soldiers choose between their duty to our country and the financial security of their families.

That is why I am introducing the Citizen Soldier Relief Act, which would exempt from taxation incomes earned by members of the Reserve component that are called to duty outside the traditional 1 weekend per month and 2 weeks per year. My bill would address a current void that exists in tax relief for our National Guard members and reservists who serve in noncombat-related capacities.

By providing tax relief for these hard-working men and women, we can show them that our Nation appreciates their service and their sacrifice. I ask my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Citizen Soldier Relief Act of 2006''.

SEC. 2. EXCLUSION FROM GROSS INCOME FOR MILITARY PAY RECEIVED BY A MEMBER OF A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES CALLED TO ACTIVE DUTY.

(a) IN GENERAL.—Section 112 of the Internal Revenue Code of 1986 (relating to certain combat zone compensation of members of the Armed Services) is amended by adding at the end the following new subsection:

''(e) RESERVE COMPONENTS CALLED TO ACTIVE DUTY.—In the case of an individual—

''(1) who is called or ordered to active duty in the Armed Forces of the United States for a period in excess of 180 days or for an indefinite period, and

''(2) at the time so called or ordered is a member of a reserve component of the Armed Forces of the United States,

gross income shall not include military pay (as defined in section 101(21) of title 37, United States Code) received by such individual on account of such active duty service.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 112 of such Code is amended by inserting before the period ''; **PAY OF MEMBERS OF RESERVE COMPONENTS OF SUCH ARMED FORCES CALLED TO ACTIVE DUTY**''.

(2) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting before the period ''; pay of members of reserve components of such Armed Forces called to active duty''.

(3) Section 3401(a)(1) of such Code is amended by inserting ''; pay of members of reserve components of such Armed Forces called to active duty'' after ''United States''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. INHOFE:

S. 3828. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, there are many things we take for granted that have made our Nation prosperous. The Founding Fathers spent their lives seeking to create a United States of America that could survive against the great powers of England, France, and Spain.

These men knew that America had at least one advantage over the European powers: size. President Jefferson's Louisiana Purchase of 1803 effectively doubled the size of the United States and provided a means by which America's inland farmers would have a guaranteed way to ship their products to market.

Even today, the comparison remains striking when you ask, ''How far will one gallon of fuel move one ton of freight?''

One gallon of fuel can move a ton of freight 59 miles by truck and 386 miles by rail. That same gallon of fuel will move a ton of freight by water 522 miles.

One of the main reasons for the economy of waterborne shipping lies in something physics students know as friction and we pilots know as drag.

The more that friction or drag increase, the more that fuel economy decreases. There is a lot of friction between a road and a truck. There is far less between a ship and a river.

This simple rule led me to lead the fight for the Water Resources Development Act a few days ago. As one of the most fiscally conservative Members of this body, I have long argued that the two most important functions of the Federal Government are to provide for national defense and public infrastructure.

Efficiency and economics require the Government to not only plan but to construct and maintain public infrastructure. Investments in real public infrastructure, like waterways and barge canals, create economies of scale that have made the American economy a wonder of the world.

My determination to stand up in this Chamber at every opportunity on behalf of national defense and public infrastructure is a large part of the reason I am introducing legislation today to make English America's official language.

A common means of communication has created one giant market for goods and labor from Maine to California. A resident of Tulsa can seek work in New Hampshire, Oregon, or Georgia without having to learn a second language. A company based in Oklahoma City can readily sell its products from Portland, ME, to Los Angeles, CA.

In Europe, by contrast, a resident of Berlin cannot look for work in Paris or

Warsaw without surmounting considerable language barriers. A German company cannot easily sell its products in Madrid, again, in part because of the language barrier.

The European Union is an effort to create a United States-like common market in Western Europe, among other things. Europeans are spending billions of euros to try to replicate what we Americans have enjoyed for free these past 230 years.

There are too many signs that we are allowing this great advantage of an American nation united by a common language to slip through our fingers.

President Bill Clinton created the most radical language policy 6 years ago when he signed Executive Order—E.O.—13166 on August 11, 2000.

E.O. 13166 declared that all recipients of Federal funds had to be ready to provide all services in any language anyone wished to speak at any time.

E.O. 13166 means that while Canada has only two official languages and the United Nations just six, the United States now has over 200 official languages.

Efforts to repeal E.O. 13166 have run aground because of a fundamental misunderstanding of what repeal would mean.

After the debate on my official English amendment, S.A. 4064, to the Senate immigration bill, S. 2611, E.J. Dionne, Jr., told readers of the May 23 Washington Post that he was still going to pray over his children in French. I have only one word to say to Mr. Dionne: relax.

Neither my earlier amendment to the immigration legislation nor the legislation I am introducing today will have any impact whatsoever on the prayers of the Dionne family or, for that matter, a dinner table chat in Spanish or a family discussion in Navajo.

Official English laws are not directed at the language people themselves choose to speak but, rather, in what language the Government speaks to the American people.

My bill basically recognizes the practical reality of the role of English as our national language. It states explicitly that English is our national language and provides English a status in law it has not before held.

Making English the official language will clarify that there is no entitlement to receive Federal documents and services in languages other than English. My legislation declares that any rights of a person, as well as services or materials in languages other than English, must be authorized or provided by law. It recognizes the decades of unbroken court opinions that civil rights laws protecting against national origin and discrimination do not create rights to Government services and materials in languages other than English.

If passed, my bill will also repeal all bilingual, or foreign-language, ballot mandates. There is a reason bilingual ballots make so many of my constituents upset. Gathering together at the polling place is one of the few remaining civic rituals we perform as Americans.

I can remember going along with my mother on election day; the American flag behind the table where voters signed in and were verified as eligible; the sound of the ''thunk'' of the levers on the voting machine. I remember thinking even then that voting was a privilege to be approached seriously.

In all too many places these days, the local polling place resembles nothing more than a branch of the Mexican consulate or an outpost of the United Nations—signs in two, three, or even more languages; people yelling at weary poll workers because a Cantonese speaker was summoned to translate for a speaker of Mandarin Chinese.

My constituents ask me all the time how people are supposed to cast an informed vote if they cannot follow the debates, which are in English, and read the campaign literature, also in English. Bilingual ballots strike many of my constituents as an invitation to all kinds of voting fraud.

Of course, when the Government attempts to please everyone by translating important documents into multiple languages, mistakes are inevitable.

To mention just one example out of many, in 1993, the Chinese ballot in New York City had the Chinese characters for the word ''no'' as a translation of the English word ''yes.'' One can only imagine the confusion that ensued.

Official English is popular, even among Hispanics. As I said before during the debate on my amendment, if you look at some of the recent polling data, such as the Zogby poll in 2006, it found 84 percent of Americans, including 77 percent of Hispanics, believed that English should be the national language of government operations. A poll of 91 percent of foreign-born Latino immigrants agreed that learning English is essential to succeed in the United States, according to a 2002 Kaiser Family Foundation survey.

I wish to conclude by saying that I think it would be a tremendous demonstration of good faith by the White House to support my legislation. America has plenty of language problems already.

If the Senate version of the President's immigration proposals should become law, every guest worker and ever recipient of amnesty would arrive on our shores as a little bundle of linguistic entitlements. Local government offices and public schools will be simply overwhelmed by the costly language mandates each of these individuals and their families will trigger.

A nation certain of its language and culture can continue to be a welcoming nation to legal immigrants. A nation with uncontrolled borders and no convictions about what it expects immigrants to do once they arrive will soon become a nation in name only.

Mr. President, my legislation is good for America and good for everyone in America. I urge its speedy passage by my colleagues.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 3832. A bill to direct the Secretary of the Interior to establish criteria to transfer title to reclamation facilities, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, since its inception in 1902, the Bureau of Reclamation has constructed numerous facilities which have supplied much of the water and power necessary to populate the Western United States. The National Research Council of the National Academy of Sciences estimates that Reclamation currently owns 673 facilities that are part of 178 major projects. When many of these facilities were constructed, there were few local communities and utilities capable of assuming title to the facilities. However, this is no longer the case. Many project beneficiaries are both willing and able to receive title to Reclamation facilities.

The growth of the environmental movement during the 1970s, explosive population growth in the West, Indian water rights claims, and urbanization transformed Reclamation from an agency that plans, designs, and constructs large projects into one that manages existing Reclamation facilities and allocates water resources in accordance with applicable law. Correspondingly, appropriations for Reclamation have decreased over the past 40 years. As chairman of the Energy and Water Development Appropriations Subcommittee, I have become increasingly concerned that Reclamation lacks adequate resources to fulfill its current mission, particularly in light of increasing nonreimbursable expenditures required for operations, maintenance, and rehabilitation of Reclamation facilities. For this reason, we need to investigate opportunities, including title transfers, to make more money available to Reclamation.

Reclamation project beneficiaries frequently claim that Reclamation services passed on to customers are far more expensive than comparable services in the private sector and that Reclamation ownership of these facilities imposes an unnecessary administrative burden on project beneficiaries. For these reasons, many project beneficiaries who have fulfilled their construction repayment obligations would like to pursue the transfer of title to Reclamation facilities and land. In addition to benefiting project beneficiaries, transfer of title to Reclamation facilities also divests the Federal Government of the liability, operation, maintenance, management, and regulation associated with these facilities. In its framework for transfer of title to Reclamation facilities, Reclamation acknowledged its commitment to a

Federal Government that ''works better and costs less.'' I believe that pursuing title transfers on a widespread basis is consistent with this policy.

While Reclamation currently has an administrative process for determining which uncomplicated transfers should be pursued by Congress, it is my belief that the process is not as aggressive or comprehensive as it should be. The bill I introduce today would direct the Secretary of the Interior to promulgate criteria for the transfer of title to Reclamation facilities and lands, including multipurpose and multibeneficiary projects. The bill also directs the Secretary of the Interior to undertake a study to identify which Reclamation facilities may be appropriate for transfer. Consistent with current policy, Congress would evaluate which of these facilities should be transferred.

I realize that title transfer may not be appropriate for every Reclamation facility. However, I believe that there are a great number of instances in which title transfer would benefit the United States and Reclamation customers.

I thank Senator BINGAMAN, ranking member of the Energy and Natural Resources Committee, for being an original cosponsor of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was orderd to be printed in the RECORD, as follows:

S. 3832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reclamation Facility Title Transfer Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' means an Indian tribe, band, Nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) PROJECT BENEFICIARY.—The term ''project beneficiary'' means 1 or more contractors or other persons or entities that receive a direct benefit under 1 or more of the authorized purposes for a reclamation facility.

(3) RECLAMATION FACILITY.—

(A) IN GENERAL.—The term ''reclamation facility'' means any single-purpose or multipurpose structure, reservoir, impoundment, ditch, canal, pumping station, or other facility for the storage, diversion, distribution, or conveyance of water—

(i) that is—

(I) authorized by Federal reclamation law; and

(II) constructed by the United States under that law;

(ii) for which the United States holds title; and

(iii) for which any non-Federal construction repayment obligations, as applicable, have been fulfilled.

(B) INCLUSIONS.—The term ''reclamation facility'' includes any land that is appurtenant to, and any administrative buildings associated with, a reclamation facility.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(5) STAKEHOLDER.—The term ''stakeholder'' means—

(A) a project beneficiary; and

(B) any person that—

(i) receives an indirect benefit from a reclamation facility; or

(ii) may be particularly affected by any transfer of title to a reclamation facility.

SEC. 3. TITLE TRANSFER.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish criteria for the transfer of title to reclamation facilities from the United States to project beneficiaries or an entity approved by project beneficiaries.

(b) INCLUSIONS.—The criteria established under subsection (a) shall include—

(1) criteria requiring that—

(A) project beneficiaries (or an entity approved by the project beneficiaries) be willing to have title to a reclamation facility transferred to the project beneficiaries;

(B) if the project beneficiaries have not yet assumed operations, maintenance, and rehabilitation of the applicable reclamation facility, the project beneficiaries be capable of assuming operations, maintenance, and rehabilitation of the reclamation facility;

(C) if there are multiple project beneficiaries, there is an agreement among multiple project beneficiaries relating to the transfer of title to a reclamation facility; and

(D) project beneficiaries be willing to assume any liability associated with the reclamation facility for which title is proposed to be transferred;

(2) criteria requiring an assessment by the Secretary of—

(A) any effects that the transfer of title would have on the ability of the Federal Government to carry out the trust responsibility of the Federal Government with respect to any Indian tribe;

(B) the cost savings to the United States if title to a reclamation facility is transferred;

(C) the interest of the project beneficiaries in owning the reclamation facility;

(D) any environmental considerations associated with the transfer of title to a reclamation facility;

(E) whether stakeholders will be adversely impacted by the transfer;

(F) the ability of project beneficiaries to meet financial obligations associated with a reclamation facility, including—

(i) transactional costs; and

(ii) costs associated with meeting the compliance requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(G) any legal considerations associated with the transfer of title to a reclamation facility, including any Federal, State, tribal, and local laws, international treaties, and interstate compacts that apply to the transfer of title of a reclamation facility to project beneficiaries; and

(H) the willingness and ability of project beneficiaries to fulfill any legal obligations associated with receiving title to a reclamation facility, including compliance with any Federal, State, tribal, and local laws, international treaties, and interstate compacts that apply to the transfer of title of a reclamation facility to project beneficiaries;

(3) procedures for—

(A) soliciting stakeholder involvement in the transfer of title to a reclamation facility; and

(B) involving appropriate Federal, State, and local entities in evaluating and carrying out the transfer of title to a reclamation facility;

(4) the requirement that the Secretary prepare a comprehensive list of any items that need to be accomplished before the transfer of title to a reclamation facility;

(5) procedures to allow the Secretary to address real property and cultural and historic preservation issues in a more efficient manner; and

(6) any other criteria that the Secretary determines to be appropriate.

(c) USE OF EXISTING CRITERIA.—For purposes of establishing the criteria under subsection (a), the Secretary shall, to the maximum extent practicable and consistent with this Act, incorporate any applicable criteria that are in existence on the date of enactment of this Act, including the criteria for the transfer of title to uncomplicated projects described in the Bureau of Reclamation document entitled ''Framework for the Transfer of Title: Bureau of Reclamation Projects'' and dated August 7, 1995.

SEC. 4. REPORT.

Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that includes any recommendations of the Secretary with respect to which reclamation facilities may be appropriate for transfer in accordance with the criteria established under section 3(a).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $2,000,000 for the period of fiscal years 2007 through 2010.

SEC. 6. TERMINATION OF AUTHORITY.

The authority of the Secretary to carry out this Act terminates on the date that is 5 years after the date of enactment of this Act.

By Mr. KERRY:

S. 3833. A bill to authorize support for the Armed Forces Support Foundation in assisting members of the National Guard and Reserve and former members of the Armed Forces in securing employment in the private sector, and for other purposes; to the Committee on Armed Services.

Mr. KERRY. Mr. President, today I am introducing the Armed Forces Employment Support Act, AFESA, which will help members of our Armed Forces transition to employment after their military service. My legislation will help the Armed Forces Support Foundation, AFSF, a nonprofit organization that helps military veterans and members of the National Guard and Reserve find jobs in the private sector, create new programs that help veterans obtain jobs after their service to the Nation.

This legislation is necessary to address disproportionate unemployment rates for young veterans, the cost to the Government to provide unemployment insurance, and skilled labor shortages in key industries. For instance, the unemployment rate for veterans aged 22 to 26 is three times the national average. The Government has spent $87 million on unemployment benefits for recently discharged veterans and lost an estimated $50 million in tax revenue. Further, a study sponsored by the Federal Mediation and Conciliation concluded the biggest problem facing the transportation industry is the shortage of skilled labor.

The transportation industry will benefit from this legislation given that many veterans have experience in transportation from their military service.

Specifically, AFESA authorizes $10 million annually through fiscal year 2011 for the National Guard to make grants to AFSF to help it pursue agreements to hire veterans with businesses in industries ranging from transportation to domestic security.

AFSF is modeled on a successful veterans employment transition program, Helmets to Hardhats, which has helped more than 150,000 veterans find jobs in the construction industry and has referred 40,000 veterans into apprenticeship programs. Helmets to Hardhats evaluates each veteran it works with to identify that veteran's experiences. It then takes that information and targets various business within the construction industry that has positions that require similar skills. The agreements it enters into guarantee a long-term partnership that benefit both parties. Helmets to Hardhats has also entered into an agreement with the National Guard to assist with recruiting efforts. In 2005, it helped recruit 396 men and women into the National Guard, which is estimated to have saved the military $3.7 million in recruiting costs.

The success of Helmets to Hardhats has been noted in the media, by the National Guard, the Department of Labor, 17 State Governors, senators, congressmen, and others as an innovative organization that has shown results and truly benefitted the veteran community and the construction industry. AFSF will build upon the success of Helmets to Hardhats by facilitating employment in multiple industries with positions that are applicable to skills veterans acquired in the military.

I can think of few causes more important that helping those who have risked their lives defending our country find good jobs and realize the American dream. Unfortunately, many veterans of the war in Iraq and other theaters are finding it difficult to find a job when they return from service. For instance, at 15.6 percent, the unemployment rate for 20- to 24-year-old veterans is nearly twice that of nonveterans. This is an unacceptable fact that this legislation will help ameliorate. Indeed, I am confident that the success of Helmets to Hardhats in the construction industry will be replicated many times over by AFSF.

Mr. President, this legislation is based on the premise that no one who has served our country in uniform should be left behind when they return to civilian life. AFSF's mission is a worthwhile and important cause that deserves the Government's support. I know that it will help our veterans, and I hope my colleagues will support it.

By Mr. SESSIONS (for himself and Mrs. FEINSTEIN).

S. 3834. A bill to amend the Controlled Substances Act to address online pharmacies; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, after working together with Senator FEINSTEIN, I am pleased to introduce the Online Pharmacy Consumer Protection Act of 2006. I have worked to take the lead in protecting consumers specifically as it relates to the sale and distribution of controlled substances and prescription drugs over the Internet and holding liable those who do so via unregistered online pharmacies. I commend Senator FEINSTEIN for her leadership on this issue and look forward to working with her to pass this important piece of legislation.

This bill would prohibit the distribution of controlled substances and prescription drugs by means of the Internet without a valid prescription and provides for the legitimate online distribution of those drugs in certain circumstances. Two weeks ago, Attorney General Gonzalez testified that sale and distribution of ''controlled pharmaceuticals on the Internet is of great concern,'' since it ''gives drug abusers the ability to circumvent the law, as well as sound medical practice.'' This bill would go a long way in addressing the concerns expressed by Attorney General Gonzalez by reigning in a practice that has gone unregulated for far too long.

Recently, there has been an explosion in the number of online pharmacies that provide prescription drugs—both controlled and noncontrolled substances—to users without valid prescriptions. Most illegal drug abuse involving prescription drugs is associated with Internet purchases, where users are given a prescription without ever seeing a doctor. The most prominent abuse occurs with regard to controlled substances such as hydrocodone, Valium, Xanax, OxyContin, and Vicodin. A 2002 study reported that nearly 15 million adults admitted to abusing prescription drugs, with 2.4 million new abusers in 2001 alone. Currently, there is no way to police this illegal activity.

The ease with which consumers may purchase controlled substances and other prescription drugs from online pharmacies without a prescription is shocking. Often consumers can obtain a prescription from physicians employed by the online pharmacy by simply filling out a brief questionnaire on the pharmacy's Web site. Most online pharmacies have no way to verify that the consumer ordering the prescription is actually who they claim to be or that the medical condition the consumer describes actually exists. Thus, drug addicts and minor children can easily order controlled substances and prescription drugs over the Internet simply by providing false identities or describing nonexistent medical conditions.

In 2001, Ryan Haight, a California high school honors student and athlete, died from an overdose of the painkiller hydrocodone that he purchased from an online pharmacy. The doctor prescribing hydrocodone had never met or personally examined Ryan. Ryan simply filled out the pharmacy's online questionnaire and described himself as a 25-year-old male suffering from chronic back pain. Ryan's death could have been avoided.

I believe that Congress is in the best position to help prevent teenagers from purchasing controlled substances and prescription drugs from online rouge pharmacies. I also believe that Congress has the ability to help prevent adult prescription drug abuse by making it harder to purchase these drugs online without a valid prescription.

The Online Pharmacy Consumer Protection Act would provide criminal penalties for those who knowingly or intentionally—unlawfully—dispense controlled substances and prescription drugs over the Internet; give State attorneys general a civil cause of action against anyone who violates the act if they have reason to believe that the violation affects the interests of their State's residents; and allow the Federal Government to take possession of any tangible or intangible property used illegally by online pharmacies.

The Online Pharmacy Consumer Protection Act would also require online pharmacies to file an additional registration statement with the Attorney General and meet additional registration requirements promulgated by him/her; report to the Attorney General any controlled substances or prescription drugs dispensed over the Internet, and comply with licensing and disclosure requirements.

The Online Pharmacy Consumer Protection Act of 2006 takes a substantial step toward plugging a loophole in our drug laws by regulating the practice of distributing controlled substances and prescription drugs via the Internet. By holding unregistered online pharmacies accountable for their activity, we are ensuring that those who seek to purchase prescription drugs by using the Internet are protected from those engaged in reprehensible business practices.

Mr. President, once again I thank Senator FEINSTEIN for her leadership in addressing this serious issue. I commend this bill to my colleagues for study, and I urge them to support this important legislation.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with Senator SESSIONS to introduce the Online Pharmacy Consumer Protection Act. Our legislation protects the safety of consumers who wish to purchase prescription drugs over the Internet, while holding accountable those who operate unregistered pharmacies.

Just a few weeks ago, Attorney General Alberto Gonzales appeared before the Senate Judiciary Committee for a DOJ Oversight hearing. In discussing the Department's priorities, he singled out how ''the purchase of ... controlled pharmaceuticals on the Internet is of

great concern.'' He noted how the Internet's wide accessibility and anonymity ''give drug abusers the ability to circumvent the law, as well as sound medical practice, a[s] they dispense potentially dangerous controlled pharmaceuticals.'' With ''no identifying... information on these Web sites, it is very difficult for law enforcement to track any of the individuals behind them.''

I believe this bill will address many of these problems that the Attorney General has identified.

To understand how many of these Internet pharmacy Web sites exist, just visit any Internet search engine. Type in the name of any controlled substance or prescription drug. Several Web sites will appear, offering to sell you these drugs without a prescription and without a medical examination. Some of these Web sites simply ask patients to send copies of medical records, with no verification of their validity.

Patients use these pharmacies to obtain addictive drugs, like Vicodin and Oxycontin. They can receive prescription medications like Viagra without a doctor performing a physical exam to ensure that an underlying health condition will not cause a dangerous side effect.

At the same time, receiving medications from a legitimate, licensed Internet pharmacy is one of the new conveniences ushered in by the Internet age. This bill preserves the ability of well-run pharmacies and well-intentioned patients to access prescription drugs and controlled substances by means of the Internet.

This legislation imposes basic, commonsense requirements on an industry that presents both promise and peril.

First, this bill establishes disclosure standards for Internet pharmacies.

Second, this bill prohibits an Internet pharmacy from dispensing or selling a prescription drug or controlled substance without an in-person examination by a physician.

Third, it allows a State attorney general to bring a civil action in Federal district court to enjoin a pharmacy operating in violation of the law and to enforce compliance with the provisions of this law.

The disclosure requirements contained in this bill will allow patients to differentiate between shady offshore pharmacies, and legitimate licensed ones. Under this legislation, pharmacies must clearly disclose the name and address of the pharmacy, contact information for the pharmacist-in-charge, and a list of States in which the pharmacy is licensed to operate. They must also clearly post a statement that they comply with the requirements in this legislation.

The bill states pharmacies can dispense to patients only if they have a valid prescription from a practitioner who has performed an in-person examination. This requirement will ensure that doctors can verify the health status of a patient and ensure that the drug he or she will receive from the pharmacy is medically appropriate.

This legislation recognizes that in the case of an emergency, a patient may not always be able to see his or her typical physician. For that reason, it allows a doctor to designate a covering practitioner to write a valid prescription if he or she is not available.

Finally, this bill contains real penalties to hold accountable those who continue to operate pharmacies in violation of these requirements.

First, for Internet sales of prescription drugs and controlled substances, the bill makes clear that such activities are subject to the current Federal laws against illegal distributions and the same penalties applicable to hand-to-hand sales.

Second, the bill increases the penalties for illegal distributions of controlled substances categorized by the DEA as schedule III, IV and V substances, with new penalties if death or serious bodily injury results and longer periods of supervised release available after convictions.

The bill also allows a State's attorney general to file a Federal motion to stop these pharmacies from operating illegally, no matter where the entity is headquartered. Previously, this type of enforcement would require a filing in every State.

I urge my colleagues to join me in supporting this legislation.

By Mr. CORNYN (for himself, Mr. CHAMBLISS, Mr. ALLEN, Mr. KYL, Mr. SESSIONS, Mr. GRAHAM, Mr. INHOFE, and Mr. SANTORUM):

S. 3835. A bill to provide adequate penalties for crimes committed against United States judges and Federal law enforcement officers, to provide appropriate security for judges and law enforcement officers, and for other purposes; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, I rise today to speak in favor of the Court and Law Enforcement Protection Act of 2006. This bill is designed to address the critical issue of judicial and law enforcement security.

Police officers place their lives on the line every time they put on their uniforms and report for duty. Likewise, the dedicated men and women who work in America's courthouses—from the judges to the court reporters—preside each day over difficult, contentious and at times very emotional legal disputes. And these public servants, like our police, are placed in hams way by the nature of their jobs. These individuals fulfill essential roles that keep our democracy running smoothly, and I have the greatest respect for them.

Unfortunately, violence directed at public servants is on the rise. From escalating violence against police officers to courthouse attacks—including in my home State of Texas—these despicable actions threaten the administration of justice. This Congress has the power—and now must exercise it—to ensure that certain and swift punishment awaits those who engage in these unconscionable acts of violence.

The administration of justice—indeed, the health of American democracy—depends on our ability to attract dedicated public servants, including police officers and judges. And so we must do all that we can to provide adequate security to these dedicated men and women who are too often targeted for violence or harassment simply because of the position they hold.

As a former State attorney general, I had the responsibility of defending sentences on appeal of certain defendants who had been found guilty of violence. So I am acutely aware of the devastating effects criminal acts of violeave have on the victims and their families. And because I also used to be a judge I am fortunate to have a number of close, personal friends who serve in law enforcement and on the bench. I personally know judges and their families who have been victims of violence, and I have grieved with those families. I am outraged that these cowardly and despicable acts continue to occur.

Police officers in this Nation are sworn to protect and to serve their fellow citizens. They selflessly respond to dangerous situations and often must diffuse highly emotional circumstances. And judges, for their part, are impartial umpires of the law. We know that they cannot help but disappoint people in their line of work because, in litigation, there is normally a winning side and a losing one. But judges, witnesses, courthouse personnel and law enforcement must not face threats and violence for doing nothing more than simply carrying out their duties.

The protection of the men and women who compose our judicial system and serve the public in law enforcement are essential to the proper administration of justice in our country. This bill takes steps toward providing additional protections to these dedicated public servants.

First, it increases the punishments, including providing mandatory minimums, against those who retaliate against judges, police officers, or their family members, on account of the performance of their duties. A high-ranking law enforcement official recently told me that detention equals deterrence. What he meant was that those who know that they will face significant incarceration think twice about committing criminal acts. I agree with him, and we should carry out that idea in this legislation.

Importantly, this bill curbs frivolous lawsuits against police officers and streamlines the appellate process for those murderers who receive the death penalty for murdering a judge or a police officer.

It is good policy to place reasonable limits on lawsuits involving police officers by limiting claims to actual damages—unless the defendant purposefully inflicted serious bodily injury on

the plaintiff, in which case the plaintiff may seek an additional $250,000 in damages. And returning the attorney's fees provisions in these cases to the traditional attorney's fees responsibility by requiring each party to bear this burden is likewise good policy.

Placing time constraints on habeas corpus petitions, including the time to file the petitions, the time to hold an evidentiary hearing on the petition, and the time to rule on a petition when the murder of a police officer is involved, is also good policy. This will eliminate extensive and unnecessary delays for the families of victims that occur when those who have victimized their loved ones find ways to delay the imposition of justice.

Finally, this bill makes technical fixes to the law enforcement concealed carry legislation passed in the 108th Congress. Some technical barriers prevent retired officers from carrying a firearm to defend themselves and their loved ones. These technical corrections will facilitate the full implementation of that provision as Congress originally intended.

Mr. President, the Court and Law Enforcement Protection Act of 2006 is an important piece of legislation. It targets those people who would stand in the way of the proper, fair, and efficient administration of justice. The men and women of law enforcement and the judiciary work hard to carry out the duties entrusted to them by their State and the Federal Constitution, and they deserve our support. This bill is a significant step In providing them that much needed support. I look forward to working with my colleagues on this issue and encourage their support of this bill.

Mr. AKAKA (for himself, Mr. INOUYE, Mr. BYRD, Mr. STEVENS, Mr. JEFFORDS, Ms. MURKOWSKI, Mr. KERRY, Mr. COCHRAN, Mr. LIEBERMAN, Mr. DODD, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. LOTT, Mr. BIDEN, Mrs. CLINTON, Mr. REID, Mr. DORGAN, Mr. REED, Mrs. FEINSTEIN, Mr. CONRAD, Mrs. DOLE, Mr. DOMENICI, and Mr. ROBERTS):

S. 3837. A bill to authorize the establishment of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I rise with my dear friend, the Senior Senator from Hawaii, DAN INOUYE, and several of our colleagues from both sides of the aisle, to introduce a bill to pay tribute to one of this body's most loyal servants. The Henry Kuualoha Giugni Kupuna Memorial Archives bill honors Henry K. Giugni, our former Sergeant-at-Arms of the U.S. Senate, through the establishment of a Native Hawaiian cultural and historical digital archives. These archives will enable the sharing and perpetuation of the unique culture, collective memory, and history of the people Henry K. Giugni so dearly loved.

As many of my colleagues are aware, Henry K. Giugni was a man full of life and loyalty who served our country with distinction. He enlisted in the U.S. Army at the age of 16 after the attack on Pearl Harbor. During World War II he served in combat at the battle of Guadalcanal. Following World War II, he continued to serve the State of Hawaii and our nation by working as a police officer and firefighter. After nearly a decade of service with Senator INOUYE in the Hawaii territorial legislature, he came to Washington, DC, as the senior senator's Senior Executive Assistant and then Chief of Staff for more than 20 years. Mr. Giugni was appointed Sergeant-at-Arms of the United States Senate in 1987.

Henry K. Giugni also sought to tear down barriers in society. In 1965 it was Mr. Giugni who represented Senator INOUYE's office, thus the people of Hawaii, in the famous 1965 Selma to Montgomery civil rights march led by Dr. Martin Luther King, Jr. As Senator INOUYE's Chief of Staff, Mr. Giugni served as a vital link between the Senator's office and minority groups. In 1987 he was the first person of color and the first Native Hawaiian to be appointed Sergeant-at-Arms of the United States Senate. In this influential position, he sought out capable minorities and women for promotion to ensure that our workforce reflects America. He appointed the first minority, an African American, to lead the Service Department, and was the first to assign women to the Capitol Police plainclothes unit. Being particularly concerned about people with disabilities, Henry K. Giugni enacted a major expansion of the Special Services Office, which now conducts tours of the U.S. Capitol for the blind, deaf, and wheelchair-bound, and publishes Senate maps and documents in Braille.

In his capacity as Sergeant-at-Arms, Mr. Giugni was the chief law enforcement officer of the U.S. Senate and an able manager of a majority of the Senate's support services. He oversaw a budget of nearly $120 million and approximately 2,000 employees. As Sergeant-at-Arms, Mr. Giugni had the opportunity to preside over the inauguration of President George H.W. Bush as well as escort numerous dignitaries, including Nelson Mandela, Margaret Thatcher, and Vaclav Havel when they visited the U.S. Capitol.

Establishing the Henry Kuualoha Giugni Memorial Archives would be a poignant and appropriate way to honor our loyal friend, colleague, and fellow American. Please allow me to explain. In Henry's passing there is a fitting analogy that can be made for the need of establishing these archives. Henry lived a life full of rich experiences and along the way he accumulated a wealth of wisdom. His memory and spirit live on but it is essential to perpetuate his wisdom and experiences so that what he learned and accomplished will not be lost to future generations. This is the primary impetus behind creating these archives. For various reasons there is a dearth of physical archives, museums, or libraries that are devoted to preserving and perpetuating the history, culture, achievements and collective narratives of indigenous peoples, including Native Hawaiians. As one generation passes, a wealth of traditional knowledge may be lost forever. Establishing these archives to perpetuate the traditional knowledge of indigenous peoples such as Henry will ensure that future generations of people have access to that knowledge and, in some sense, are able to learn from the original sources themselves.

The development of the Internet in managing knowledge in electronic format has enabled the most pervasive storing and sharing of information the world has ever seen. An electronic, digital archives would facilitate the sharing, preservation and perpetuation of the unique Native Hawaiian culture, language, tradition and history. These archives will be a source of enduring knowledge, accessible to all, and will contribute to the cultural, social and economic advancement of Native Hawaiians and the State of Hawaii. It will help to ensure that the children of today and tomorrow will not be deprived of the rich culture, history and collective knowledge of Native Hawaiians. These archives will help to guarantee that the experiences, wisdom and knowledge of kupuna, or grandfathers and grandmothers such as Henry K. Giugni, will not be lost to future generations.

The first section of the Henry Kuualoha Giugni Memorial Archives bill authorizes a grant awarded to the University of Hawaii's Academy for Creative Media for the establishment, maintenance and update of the archives which are to be located at the University of Hawaii. These funds shall be used to enable a statewide archival effort which will include the acquisition of a secure, web-accessible repository that will house significant Native Hawaiian historical and cultural information. This information may include oral histories, collective narratives, photographs, video files, journals, creative works and even documentation of practices and customs such as hula and music. The funds will enable this important effort by assisting in the purchasing of equipment, hiring of personnel, creating space for the collection and transfer of media, housing the archives, and creating this in-depth database.

The second section of this bill authorizes the use of these grant funds for several different educational activities, many of which are intended to magnify the effect and resourcefulness of these archives and benefit the student populations who will likely access the archives the most. This includes the development of educational materials from the content of the archives that can be used in educating indigenous students such as Native Hawaiians, Alaska Natives, and Native American Indians. These materials are

meant to enhance the education of all students, even students from non-native backgrounds. This also includes developing outreach initiatives to introduce the archives to elementary and secondary schools as well as enabling schools to access the archives through obtaining computer equipment.

Grant funds can also be used to enable access to a college education to students who otherwise cannot independently afford such an education through scholarship awards. Additionally, funds can be used to address the problem of cultural incongruence in teaching, an issue that impedes effective learning in our Nation's classrooms. Such a lack of congruence exists in a wide range of situations, from rural and underserved communities in remote areas to well-populated urban centers, from my state of Hawaii to areas on the Eastern seaboard. The dynamic I am describing exists along lines of race and ethnicity, socioeconomic strata, age, and many other vectors, which can muddy the effective transmission of knowledge. Many of us, especially those from rural, indigenous, or ethnic minority backgrounds including Henry Giugni, have experienced this problem as we have worked our way through the education system. This bill also seeks to improve student achievement by addressing cultural incongruence between teachers and the student population by providing professional development training to teachers to enable them to teach in a culturally congruent way.

Finally, as financial illiteracy is a growing problem especially among college age youth who are exposed to a variety of financial products, funds can be used to increase the economic and financial literacy of college students through the propagation of proven best practices that have resulted in positive behavioral change in regards to improved debt and credit management and economic decision making. Such activities can help to ensure that students stay in school, graduate in a better financial position, and remain disciplined in effectively managing their finances throughout their working and retirement years.

Henry K. Giugni served amongst us with distinction and honor. I am very grateful to have known him. I encourage all of my colleagues to perpetuate his memory by supporting the Henry Kuualoha Giugni Memorial Archives bill. These archives are the most fitting way we can honor and remember our friend and dear public servant, Henry Kuualoha Giugni.

I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. INOUYE. Mr. President, I rise in support of the Henry Kuualoha Giugni Kupuna Memorial Archives Bill.

Henry Giugni was my dear friend. He was an important part of my life for nearly half a century. He tirelessly and proudly served the people of Hawaii as my chief of staff. After leaving my office, he eagerly and enthusiastically dedicated himself to serving the Senate and the citizens of the United States as the Senate's 30th Sergeant-at-Arms.

In the days following his passing on November 3, 2005, I was deeply touched by the hundreds of people who reached out to me, and shared, through conversations and letters, their memories of Henry. The stories were poignant. They were filled with love and affection for a bear of a man who—while he could be gruff and outrageous at times—could never camouflage his gentle soul and his willingness to help others, especially those who were less fortunate or who were just beginning their careers. The shared memories of Henry revealed that he enriched lives, served as an inspiration, and gave hope.

Similarly, this bill, which bears Henry's name, will not only honor him, but more importantly will serve the people of Hawaii, especially the descendants of the islands' first settlers. It will also help Hawaii's unique native traditions and culture to flourish. By establishing a digital memorial archive at the University of Hawaii's Academy for Creative Media, this bill will enrich the lives of the people of Hawaii and those who live beyond Hawaii's shores. The digital archive will be a 21st-century way of inspiring and giving hope by preserving the invaluable lessons and insights from the collective memory and history of Native Hawaiians.

During the years that Henry was a young boy attending school, the history of Native Hawaiians and Hawaii was rarely—if ever—taught in Hawaii. It was only relatively recently that Hawaiian history became an essential part of the curriculum of Hawaii's schools. Henry was proud that he was part-Hawaiian, and he was proud that someone like him, from humble beginnings, could find success in Washington, in an environment vastly different from his roots in Hawaii. While he became an acquaintance of presidents and kings, his heart was always with the native people of Hawaii, who are still struggling for their moment in the sun.

In addition to creating a digital archive and preserving the traditions and culture of Native Hawaiians, this legislation will support initiatives to develop Web-based media projects from the archive to create educational materials that can be used to enhance the education of indigenous students. It also can serve to inspire higher educational achievement by indigenous students by sharing with them the stories and histories of accomplished individuals with indigenous backgrounds, such as Henry.

So although Henry is no longer with us, his mentoring and sharing spirit will live on through the digital archive created by this bill. Through the archive, Henry will always be the embodiment of the kupuna—the respected elder who has much wisdom and insight to share.

My colleagues, please join me in supporting the Henry Kuualoha Giugni Kupuna Memorial Archives Bill.

By Mr. HATCH (for himself and Mrs. LINCOLN):

S. 3838. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, on behalf of myself and my friend and colleague, Senator LINCOLN, I rise today to introduce the S Corporation Reform Act of 2006.

The bill we are introducing today is a continuation of a bipartisan effort that began in the Senate over a decade ago when former Senators Pryor and Danforth, me and six other Senators, introduced the S Corporation Reform Act of 1993. We recognized then, as we do today, that S corporations are a vital and growing part of our economy and that our tax law should reflect the importance of these entities and provide tax rules that allow S corporations to grow and compete with a minimum of complexity and a maximum of flexibility.

According to the latest figures available from the Small Business Administration, there were approximately 3.1 million S corporations in the United States in 2002 with a total of $3.9 trillion in revenue. There were about a half million S corporations in 1980, so the growth of these entities has been striking. Surprisingly, the growth of S corporations has continued even after the advent of the Limited Liability Company, LLC, which offers many of the same benefits, but more flexibility, as S corporations. In fact, S corporations now outnumber both C corporations and partnerships. These are predominantly small businesses in the retail and service sectors. In my home State of Utah, over half the corporations have elected subchapter S treatment.

Subchapter S of the Internal Revenue Code was enacted in 1958 to help remove tax considerations from small business owners' decisions to incorporate. This elective tax treatment has been helpful to millions of small businesses over the years, particularly to those just starting out. Subchapter S provides entrepreneurs the advantage of corporate protection from liability along with the single level of tax enjoyed by partnerships and limited liability companies.

However, Subchapter S in its current state contains a variety of limitations, restrictions, and pitfalls for the unwary. Even though some very important improvements have been made over the years, including many first introduced in the 1993 S Corporation Reform Act I mentioned earlier, more needs to be done to bring the tax treatment of these important businesses into the 21st century. The two biggest constraints that small businesses face are difficulties in getting access to capital and the tax burden. The bill we are

introducing today addresses both of these vital issues.

Small businesses create two-thirds of all new jobs in the economy and account for roughly half of the overall employment in the country. Throughout the 1990s small businesses accounted for sixty to eighty percent of all new jobs. They are especially important in industries where technological innovation is important. According to the Congressional Research Service, small firms account for nearly forty percent of all scientists, engineers, and computer specialists working in the private sector.

During the most recent downturn of 2001–2002, when the state of Utah lost jobs, small businesses actually created jobs and helped soften the blow for many Utahns. Today, as our economy is booming, small businesses continue to generate the bulk of new jobs.

In rural America, the role of small enterprises is even more important. Small businesses account for 90 percent of all rural establishments. In 1998, small companies employed 60 percent of rural workers and provided half of rural payrolls.

Perhaps the biggest challenge facing many American businesses, but especially smaller ones, is attracting adequate capital. Unfortunately, subchapter S is currently a hindrance, rather than a help, for many corporations facing this challenge. For example, current law allows for only one class of stock for S corporations. Further, S corporations are not currently allowed to issue convertible debt, nor are they allowed to have a nonresident alien as a shareholder.

Several of the provisions of the S Corporation Reform Act of 2006 are designed to alleviate these restrictions on S corporations and help them attract capital. With these changes, S corporations will be more competitive with other small enterprises doing business as partnerships or limited liability companies that do not face such barriers.

Even though electing subchapter S currently offers significant tax relief to a small corporation by eliminating the corporate level of taxation, S corporations still face some significant tax burdens and a myriad of potential pitfalls and tax traps for the unwary. Some of these impediments exist in the requirements of elective S corporation status, and others are in the rules governing the day-to-day operations of the entities. In either case, these provisions can stifle growth and impede job creation.

Most of the provisions in our bill aim to eliminate these barriers and make it easier for companies to elect subchapter S and to operate in this status once the election is made.

The Small Business Job Protection Act of 1996 made many important changes to subchapter S. One of the most significant was to allow, for the first time, small banks to elect to be S corporations. This opened the door for many small community banks to become more competitive with other financial institutions operating in towns and neighborhoods throughout the country. The availability of Subchapter S has been a positive development in increasing the profitability and competitiveness of many community banks. Some 2,300 banks have chosen to be S corporations, representing 25 percent of all banks. However, some of the operating rules under subchapter S remain unduly inflexible, complex, and harsh on banks.

The bill we introduce today attempts to address many of these challenges by clarifying and relaxing some of the operational rules that apply to S corporations. These changes are designed to make it significantly easier for community banks to take advantage of the benefits of subchapter S. In my opinion, businesses should be allowed to focus on meeting their customers' needs and maximizing their shareholders' profits, and not preoccupied with conforming to Byzantine government rules.

While the corporate structure of an S corporation would not generally make sense for larger companies, the tax structure applied to S corporations is quite sensible and can serve as a model for other companies. Economists hail the single level of taxation of profits in the S corporation law as a much more efficient approach, and something that would be desirable for all enterprises.

The S Corporation Reform Act of 2006 enjoys the support of a broad range of associations and trade groups, many of which have worked with us in crafting the bill.

I urge my colleagues to take a close look at this bill, and to support it. Thousands of small and growing businesses in every state will benefit from the improvements included in the bill. Its enactment will lead to an increased ability of these enterprises to attract capital and create new jobs.

I ask unanimous consent that the text of the bill and section-by-section explanation of the bill be printed in the RECORD.

S. 3838

There being no objection, the text was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''S Corporation Reform Act of 2006''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.

TITLE I—ELIGIBLE SHAREHOLDERS OF AN S CORPORATION

Sec. 101. Nonresident aliens allowed to be shareholders.

Sec. 102. Expansion of S corporation eligible shareholders to include IRAS.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS OF S CORPORATIONS

Sec. 201. Issuance of preferred stock permitted.

Sec. 202. Safe harbor expanded to include convertible debt.

Sec. 203. Repeal of excessive passive investment income as a termination event.

Sec. 204. Modifications to passive income rules.

Sec. 205. Adjustment to basis of s corporation stock for certain charitable contributions.

TITLE III—TREATMENT OF S CORPORATION SHAREHOLDERS

Sec. 301. Treatment of losses to shareholders.

Sec. 302. Deductibility of interest expense incurred by an electing small business trust to acquire S corporation stock.

Sec. 303. Back to back loans as indebtedness.

TITLE IV—EXPANSION OF S CORPORATION ELIGIBILITY FOR BANKS

Sec. 401. Treatment of qualifying director shares.

Sec. 402. Recapture of bad debt reserves.

TITLE V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

Sec. 501. Treatment of the sale of interest in a qualified subchapter S subsidiary.

TITLE VI—ADDITIONAL PROVISIONS

Sec. 601. Elimination of all earnings and profits attributable to pre-1983 years.

Sec. 602. Repeal of LIFO recapture tax.

Sec. 603. Expansion of post-termination transition period.

Sec. 604. Reduction in tax rate on excess net passive income.

Sec. 605. Increase in cap on qualified small issue bonds.

Sec. 606. Special rules of application.

TITLE I—ELIGIBLE SHAREHOLDERS OF AN S CORPORATION

SEC. 101. NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.

(a) NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Paragraph (1) of section 1361(b) (defining small business corporation) is amended—

(A) by adding ''and'' at the end of subparagraph (B),

(B) by striking subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) and (5)(A) of section 1361(c) (relating to special rules for applying subsection (b)) are each amended by striking ''subsection (b)(1)(D)'' and inserting ''subsection (b)(1)(C)''.

(B) Clause (i) of section 280G(b)(5)(A) (relating to general rule for exemption for small business corporations, etc.) is amended by striking ''but without regard to paragraph (1)(C) thereof''.

(b) NONRESIDENT ALIEN SHAREHOLDER TREATED AS ENGAGED IN TRADE OR BUSINESS WITHIN UNITED STATES.—

(1) IN GENERAL.—Section 875 is amended—

(A) by striking ''and'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting '', and'', and

(C) by adding at the end the following new paragraph:

''(3) a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the S corporation of which such individual is a shareholder is so engaged.''.

(2) PRO RATA SHARE OF S CORPORATION INCOME.—The last sentence of section 1441(b) (relating to income items) is amended to read as follows: ''In the case of a nonresident alien individual who is a member of a domestic partnership or a shareholder of an S corporation, the items of income referred to in subsection (a) shall be treated as referring to items specified in this subsection included in his distributive share of the income of such partnership or in his pro rata share of the income of such S corporation.''.

(3) APPLICATION OF WITHHOLDING TAX ON NONRESIDENT ALIEN SHAREHOLDERS.—Section 1446 (relating to withholding tax on foreign partners' share of effectively connected income) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

''(1) an S corporation shall be treated as a partnership,

''(2) the shareholders of such corporation shall be treated as partners of such partnership,

''(3) any reference to section 704 shall be treated as a reference to section 1366, and

''(4) no withholding tax under subsection (a) shall be required in the case of any income realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).''.

(4) CONFORMING AMENDMENTS.—

(A) The heading of section 875 is amended to read as follows:

''SEC. 875. PARTNERSHIPS; BENEFICIARIES OF ESTATES AND TRUSTS; S CORPORATIONS.''.

(B) The heading of section 1446 is amended to read as follows:

''SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' AND S CORPORATION SHAREHOLDERS' SHARE OF EFFECTIVELY CONNECTED INCOME.''.

(5) CLERICAL AMENDMENTS.—

(A) The item relating to section 875 in the table of sections for subpart A of part II of subchapter N of chapter 1 is amended to read as follows:

''Sec. 875. Partnerships; beneficiaries of estates and trusts; S corporations.''.

(B) The item relating to section 1446 in the table of sections for subchapter A of chapter 3 is amended to read as follows:

''Sec. 1446 Withholding tax on foreign partners' and S corporation shareholders' share of effectively connected income.''.

(C) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—Section 894 (relating to income affected by treaty) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—If a partnership or S corporation has a permanent establishment in the United States (within the meaning of a treaty to which the United States is a party) at any time during a taxable year of such entity, a nonresident alien individual or foreign corporation which is a partner in such partnership, or a nonresident alien individual who is a shareholder in such S corporation, shall be treated as having a permanent establishment in the United States for purposes of such treaty.''.

(c) APPLICATION OF OTHER WITHHOLDING TAX RULES ON NONRESIDENT ALIEN SHAREHOLDERS.—

(1) SECTION 1441.—Section 1441 (relating to withholding of tax on nonresident aliens) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

''(1) an S corporation shall be treated as a partnership,

''(2) the shareholders of such corporation shall be treated as partners of such partnership, and

''(3) no deduction or withholding under subsection (a) shall be required in the case of any item of income realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).''.

(2) SECTION 1445.—Section 1445(e) (relating to special rules relating to distributions, etc., by corporations, partnerships, trusts, or estates) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

''(A) an S corporation shall be treated as a partnership, and

''(B) the shareholders of such corporation shall be treated as partners of such partnership, and

''(C) no deduction or withholding under subsection (a) shall be required in the case of any gain realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1361(c)(2)(A)(i) is amended by striking ''who is a citizen or resident of the United States''.

(2) Section 1361(d)(3)(B) is amended by striking ''who is a citizen or resident of the United States''.

(3) Section 1361(e)(2) is amended by inserting ''(including a nonresident alien)'' after ''person'' the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 102. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Clause (vi) of section 1361(c)(2)(A) (relating to certain trusts permitted as shareholders) is amended to read as follows:

''(vi) A trust which constitutes an individual retirement account under section 408(a), including one designated as a Roth IRA under section 408A.''.

(b) SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.—Paragraph (16) of section 4975(d) (relating to exemptions) is amended to read as follows:

''(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if

''(A) such sale is pursuant to an election under section 1362(a) by the issuer of such stock,

''(B) such sale is for fair market value at the time of sale (as established by an independent appraiser) and the terms of the sale are otherwise at least as favorable to such trust as the terms that would apply on a sale to an unrelated party,

''(C) such trust does not pay any commissions, costs, or other expenses in connection with the sale, and

''(D) the stock is sold in a single transaction for cash not later than 120 days after the S corporation election is made.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS OF S CORPORATIONS

SEC. 201. ISSUANCE OF PREFERRED STOCK PERMITTED.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) TREATMENT OF QUALIFIED PREFERRED STOCK.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) qualified preferred stock shall not be treated as a second class of stock, and

''(B) no person shall be treated as a shareholder of the corporation by reason of holding qualified preferred stock.

''(2) QUALIFIED PREFERRED STOCK DEFINED.—For purposes of this subsection, the term 'qualified preferred stock' means stock which meets the requirements of subparagraphs (A), (B), and (C) of section 1504(a)(4). Stock shall not fail to be treated as qualified preferred stock merely because it is convertible into other stock.

''(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualified preferred stock shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1361(b) is amended by inserting '', except as provided in subsection (f),'' before ''which does not''.

(2) Subsection (a) of section 1366 is amended by adding at the end the following new paragraph:

''(3) ALLOCATION WITH RESPECT TO QUALIFIED PREFERRED STOCK.—The holders of qualified preferred stock (as defined in section 1361(f)) shall not, with respect to such stock, be allocated any of the items described in paragraph (1).''.

(3) So much of clause (ii) of section 354(a)(2)(C) as precedes subclause (II) is amended to read as follows:

''(ii) RECAPITALIZATION OF FAMILY-OWNED CORPORATIONS AND S CORPORATIONS.—

''(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(I)(E) of a family-owned corporation or S corporation.''.

(4) Subsection (a) of section 1373 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) no amount of an expense deductible under this subchapter by reason of section 1361(f)(3) shall be apportioned or allocated to such income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 202. SAFE HARBOR EXPANDED TO INCLUDE CONVERTIBLE DEBT.

(a) IN GENERAL.—Subparagraph (B) of section 1361(c)(5) (defining straight debt) is amended by striking clauses (ii) and (iii) and inserting the following new clauses:

''(ii) in any case in which the terms of such promise include a provision under which the obligation to pay may be converted (directly or indirectly) into stock of the corporation, such terms, taken as a whole, are substantially the same as the terms which could have been obtained on the effective date of the promise from a person which is not a related person (within the meaning of section

465(b)(3)(C)) to the S corporation or its shareholders, and

''(iii) the creditor is—

''(I) an individual,

''(II) an estate,

''(III) a trust described in paragraph (2),

''(IV) an exempt organization described in paragraph (6), or

''(V) a person which is actively and regularly engaged in the business of lending money.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 203. REPEAL OF EXCESSIVE PASSIVE INVESTMENT INCOME AS A TERMINATION EVENT.

(a) IN GENERAL.—Section 1362(d) (relating to termination) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 1362(f)(1) is amended by striking ''or (3)''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 204. MODIFICATIONS TO PASSIVE INCOME RULES.

(a) INCREASED LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(B) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 percent'' and inserting ''60 percent''.

(C) The heading for section 1375 is amended by striking ''**25 PERCENT**'' and inserting ''**60 PERCENT**''.

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' in the item relating to section 1375 and inserting ''60 percent''.

(b) REPEAL OF PASSIVE INCOME CAPITAL GAIN CATEGORY.—

(1) IN GENERAL.—Subsection (b) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 60 percent of gross receipts), as amended by subsection (a), is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meaning as when used in section 1374.''.

(2) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 205. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (1) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) the excess of the amount of the shareholder's proportionate share of any charitable contribution made by the S corporation over the shareholder's proportionate share of the adjusted basis of the property contributed.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

TITLE III—TREATMENT OF S CORPORATION SHAREHOLDERS

SEC. 301. TREATMENT OF LOSSES TO SHAREHOLDERS.

(a) LIQUIDATIONS.—Section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) LOSS ON LIQUIDATIONS OF S CORPORATION.—

''(1) IN GENERAL.—The portion of any net loss recognized by a shareholder of an S corporation (as defined in section 1361(a)(1))—

''(A) on amounts received by such shareholder in a distribution in complete liquidation of such S corporation, or

''(B) on an installment obligation received by such shareholder with respect to a sale or exchange by the corporation during the 12-month period beginning on the date a plan of complete liquidation is adopted if the liquidation is completed during such 12-month period, which does not exceed the ordinary income basis of stock of such S corporation in the hands of such shareholder shall not be treated as a loss from the sale or exchange of a capital asset but shall be treated as an ordinary loss.

''(2) ORDINARY INCOME BASIS.—For purposes of this subsection, the ordinary income basis of stock of an S corporation in the hands of a shareholder of such S corporation shall be an amount equal to the portion of such shareholder's basis in such stock which is equal to the aggregate increases in such basis under section 1367(a)(1) resulting from such shareholder's pro rata share of ordinary income of such S corporation attributable to the complete liquidation.''.

(b) SUSPENDED PASSIVE ACTIVITY LOSSES.—Paragraph (3) of section 1371(b) is amended to read as follows:

''(3) TREATMENT OF S YEAR AS ELAPSED YEAR; PASSIVE LOSSES.—Nothing in paragraphs (1) and (2) shall prevent treating a taxable year for which a corporation is an S corporation as a taxable year for purposes of determining the number of taxable years to which an item may be carried back or carried forward nor prevent the allowance of a passive activity loss deduction to the extent provided by section 469(g).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 302. DEDUCTIBILITY OF INTEREST EXPENSE INCURRED BY AN ELECTING SMALL BUSINESS TRUST TO ACQUIRE S CORPORATION STOCK.

(a) IN GENERAL.—Subparagraph (C) of section 641(c)(2) (relating to modifications) is amended by inserting after clause (iii) the following new clause:

''(iv) Any interest expense incurred to acquire stock in an S corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 303. BACK TO BACK LOANS AS INDEBTEDNESS.

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

''(4) LOANS INCLUDED IN INDEBTEDNESS OF AN S CORPORATION.—For purposes of subsection (d), the indebtedness of an S corporation to the shareholder shall include any loans made or acquired (by purchase, gift, or distribution from another person) by a shareholder to the S corporation, regardless of whether the funds loaned by the shareholder to the S corporation were obtained by the shareholder by means of a recourse loan from another person (whether related or unrelated to the shareholder).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

TITLE IV—EXPANSION OF S CORPORATION ELIGIBILITY FOR BANKS

SEC. 401. TREATMENT OF QUALIFYING DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation), as amended by section 201(a), is amended by adding at the end the following new subsection:

''(g) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) qualifying director shares shall not be treated as a second class of stock, and

''(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

''(2) QUALIFYING DIRECTOR SHARES DEFINED.—For purposes of this subsection, the term 'qualifying director shares' means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

''(A) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

''(B) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder's status as a director at the same price as the individual acquired such shares of stock.

''(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1361(b)(1), as amended by section 201(b), is amended by striking ''subsection (f)'' and inserting ''subsections (f) and (g)''.

(2) Section 1366(a), as amended by section 201(b), is amended by adding at the end the following new paragraph:

''(4) ALLOCATION WITH RESPECT TO QUALIFYING DIRECTOR SHARES.—The holders of qualifying director shares (as defined in section 1361(g)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).''.

(3) Section 1373(a), as amended by section 201(b), is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and adding at the end the following new paragraph:

''(4) no amount of an expense deductible under this subchapter by reason of section 1361(g)(3) shall be apportioned or allocated to such income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 402. RECAPTURE OF BAD DEBT RESERVES.

Notwithstanding section 481 of the Internal Revenue Code of 1986, with respect to any S corporation election made by any bank in taxable years beginning after December 31, 1996, such bank may recognize built-in gains from changing its accounting method for recognizing bad debts from the reserve method under section 585 or 593 of such Code to the charge-off method under section 166 of such Code either in the taxable year ending with or beginning with such an election.

TITLE V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

SEC. 501. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Section 1361(b)(3) (relating to treatment of certain wholly owned subsidiaries) is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE ON TERMINATION.—The tax treatment of the disposition of the stock of the qualified subchapter S subsidiary shall be determined as if such disposition were—

''(i) a sale of the undivided interest in the subsidiary's assets based on the percentage of the stock transferred, and

''(ii) followed by a deemed contribution by the S corporation and the transferee in a section 351 transaction.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE VI—ADDITIONAL PROVISIONS

SEC. 601. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.

(a) IN GENERAL.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

''(a) IN GENERAL.—If a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation's accumulated earnings and profits (as of the beginning of any taxable year beginning after December 31, 1982) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 602. REPEAL OF LIFO RECAPTURE TAX.

(a) IN GENERAL.—Section 1363 (relating to effect on election on corporations) is amended by striking subsection (d).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections made after the date of the enactment of this Act.

SEC. 603. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Clause (ii) of section 1377(b)(1)(A) (defining post-termination transition period) is amended to read as follows:

''(ii) the date on which any refund or credit of any overpayment of tax with respect to the return for such last year as an S corporation is prevented by the operation of any law or rule of law (including res judicata),''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods beginning after the date of the enactment of this Act.

SEC. 604. REDUCTION IN TAX RATE ON EXCESS NET PASSIVE INCOME.

(a) IN GENERAL.—Section 1375(a) (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking ''computed by multiplying the excess net passive income by the highest rate of tax specified in section 11(b)'' and inserting ''15 percent of the excess net passive income''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 605. INCREASE IN CAP ON QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(A)(i) (relating to general rule for $10,000,000 limit in certain cases) is amended by striking ''$10,000,000'' and inserting ''$10,000,000($30,000,000 in the case of any bank (as defined in section 581) or any depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)) which is an S corporation)''.

(b) ADJUSTMENT OF CAP FOR INFLATION.—Section 144(a) (relating to qualified small issue bond) is amended—

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

''(12) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any calendar year after 2006, the $30,000,000 amount contained in paragraph (4)(A)(i) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—Any increase under subparagraph (A) which is not a multiple of $100,000 shall be rounded to the next lowest multiple of $100,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) obligations issued after the date of the enactment of this Act; and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 606. SPECIAL RULES OF APPLICATION.

(a) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of any amendment made by this Act is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claimed therefor is filed before the close of such period.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination or revocation under section 1362(d) of such Code (as in effect on the day before enactment of this Act) shall not be taken into account.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S CORPORATION REFORM ACT OF 2006—SECTION-BY-SECTION DESCRIPTION

The Subchapter S Modernization Act of 2006 includes the following provisions to help improve capital formation opportunities for small business, preserve family-owned businesses, and eliminate unnecessary and unwarranted traps for taxpayers:

TITLE I—Eligible Shareholders of an S Corporation

SECTION 101. NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS

The Act would permit nonresident aliens to be S corporation shareholders. To assure collection of the appropriate amount of tax, the Act requires the S corporation to withhold and pay a tax on effectively-connected income allocable to its nonresident alien shareholders. The provision enhances an S corporation's ability to expand into international markets and expands an S corporation's access to capital.

SECTION 102. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS

The Act permits Individual Retirement Accounts (IRAs) to hold stock in an S corporation. Currently this is permitted only for S corporations that are banks.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS OF S CORPORATIONS

SECTION 201. ISSUANCE OF PREFERRED STOCK PERMITTED

The Act would permit S corporations to issue qualified preferred stock (''QPS''). QPS generally would be stock that (I) is not entitled to vote, (ii) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and (iii) has redemption and liquidation rights which do not exceed the issue price of such stock (except for a reasonable redemption or liquidation premium). Stock would not fail to be treated as QPS merely because it is convertible into other stock. This provision increases access to capital from investors who insist on having a preferential return and facilitates family succession by permitting the older generation of shareholders to relinquish control of the corporation but maintain an equity interest.

SECTION 202. SAFE HARBOR EXPANDED TO INCLUDE CONVERTIBLE DEBT

The Act permits S corporations to issue debt that may be converted into stock of the corporation provided that the terms of the debt are substantially the same as the terms that could have been obtained from an unrelated party. The Act also expands the current law safe-harbor debt provision to permit nonresident alien individuals as creditors. The provision facilitates the raising of investment capital.

SECTION 203. REPEAL OF EXCESSIVE PASSIVE INVESTMENT INCOME AS A TERMINATION EVENT

The Act would repeal the rule that an S corporation would lose its S corporation status if it has excess passive income for three consecutive years. A corporate-level ''sting'' (or double) tax would still apply, as modified

in Sections 204 and 604 below, to excess passive income.

SECTION 204. MODIFICATIONS TO PASSIVE INCOME RULES

The Act would increase the threshold for taxing excess passive income from 25 percent to 60 percent (consistent with a Joint Tax Committee recommendation on simplification measures). In addition, the Act removes gains from the sales or exchanges of stock or securities from the definition of passive investment income for purposes of the sting tax.

SECTION 205. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS

Current rules discourage charitable gifts of appreciated property by S corporations. The Act would remedy this problem by providing for an increase in the basis of shareholders' stock in an amount equal to the excess of the value of the contributed property over the basis of the property contributed. This provision conforms the S corporation rules to those applicable to charitable contributions by partnerships.

TITLE III—TREATMENT OF S CORPORATION SHAREHOLDERS

SECTION 301. TREATMENT OF LOSSES TO SHAREHOLDERS

In the case of a liquidation of an S corporation, current law can result in double taxation because of a mismatch of ordinary income (realized at the corporate level and passed through to the shareholder) and a capital loss (recognized at the shareholder level on the liquidating distribution). Although careful tax planning can avoid this result, many S corporations do not have the benefit of sophisticated tax advice. The Act eliminates this potential trap by providing that any portion of any loss recognized by an S corporation shareholder on amounts received by the shareholder in a distribution in complete liquidation of the S corporation would be treated as an ordinary loss to the extent of the shareholder's basis in the S corporation stock.

SECTION 302. DEDUCTIBILITY OF INTEREST EXPENSE INCURRED BY AN ELECTING SMALL BUSINESS TRUST (ESBT) TO ACQUIRE S CORPORATION STOCK

The Act provides that interest expense incurred by an ESBT to acquire S corporation stock is deductible by the S portion of the trust. Current regulations provide that interest expense incurred by an ESBT to acquire stock in an S corporation is allocable to the S portion of the trust, but is not deductible. This result is contrary to the treatment of other taxpayers, who are entitled to deduct interest incurred to acquire an interest in a pass through entity. Further, Congress never intended to place ESBTs at a disadvantage relative to other taxpayers.

SECTION 303. BACK-TO-BACK LOANS AS INDEBTEDNESS

This provision would remove a significant trap for unwary shareholders of unsophisticated S corporations. The amount of a shareholder's pro rata share of corporate losses that may be taken into account are currently limited to the sum of (1) the basis in the stock, plus (2) the basis of any shareholder loans to the S corporation. The debt must run directly to the shareholder for the shareholder to receive basis for this purpose; the creditor may not be a person related to the shareholder. It is not uncommon for the shareholders of an S corporation to own related entities. Often times, loans are made among these related entities. Under current law, it is extremely difficult for the shareholders of an S corporation to restructure these loans in order to create basis in the S corporation against which losses of the S corporation may be claimed. The ability to create loan basis through the restructuring of related party loans has been the subject of numerous court cases and is an area of much uncertainty. The Act will protect these taxpayers from an unfair and unwarranted fate by providing that true indebtedness from an S corporation to a shareholder (funds for which the shareholder is truly obligated to either repay or for which he/she experiences a true economic outlay) increases shareholder debt basis, irrespective of the original source of the funds to the corporation.

TITLE IV—EXPANSION OF S CORPORATION ELIGIBILITY FOR BANKS

SECTION 401. TREATMENT OF QUALIFYING DIRECTOR SHARES

The Act clarifies that qualifying director shares of a bank are not to be treated as a second class of stock. Instead, the qualifying director shares are treated as a liability of the bank and no gain or loss from the S corporation will be allocated to these qualifying director shares. The provision clarifies the law and removes a significant obstacle unique among banks contemplating an S corporation election.

SECTION 402. RECAPTURE OF BAD DEBT RESERVES

The Act permits bank S corporations to recapture up to 100 percent of their bad debt reserves on their first S corporation tax return and/or their last C corporation income tax return prior to the effective date of the S election. Under current law, banks that convert to S corporation status must change from the reserve method of accounting for bad debts to the specific charge-off method. The differential must often be ''recaptured'' into income and is treated as built-in gain subject to tax at both the shareholder and the corporate level. The Act allows banks to accelerate the recapture of bad debt reserves to their last C corporation tax year. The corporate level tax would still be paid on the recapture income, but the recapture would no longer trigger a tax for the bank's shareholders.

TITLE V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

SECTION 501. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY (QSUB)

The Act treats the disposition of QSub stock as a sale of the undivided interest in the QSub's assets based on the underlying percentage of stock transferred followed by a deemed contribution by the S corporation and the acquiring party in a nontaxable transaction. Under current law, an S corporation may be required to recognize 100 percent of the gain inherent in a QSub's assets if it sells as little as 21 percent of the QSub's stock. IRS regulations suggest this result can be avoided by merging the QSub into a single member LLC prior to the sale, then selling an interest in the LLC (as opposed to stock in the QSub). The Act achieves this result without any unnecessary merger and thus removes a trap for the unwary.

TITLE VI—ADDITIONAL PROVISIONS

SECTION 601. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS

The Small Business Job Protection Act of 1996 eliminated certain pre-1983 earnings and profits of S corporations that had S corporation status for their first tax year beginning after December 31, 1996. The provision should apply to all S corporations with pre-1983 S earnings and profits without regard to when they elect S status. There seems to be no policy reason why the elimination was restricted to corporations with an S election in effect for their first taxable year beginning after December 31, 1996.

SECTION 602. THE REPEAL OF THE LIFO RECAPTURE TAX

Often the most significant hurdle faced by a corporation desiring to elect S corporation status is the LIFO recapture tax. In many cases, this tax makes it cost-prohibitive for a corporation to elect S status. The LIFO recapture tax was enacted in 1987 in response to concerns that a taxpayer using the LIFO method of accounting, upon conversion to S corporation status, could avoid a corporate-level tax on LIFO layers because the S corporation would only be subject to a corporate-level tax on LIFO layers for the first 10 years after conversion instead of indefinitely, as in the case of a C corporation.

These concerns are unfounded. Most corporations, whether S or C, hold base LIFO layers far longer than the 10-year recognition period (often holding them indefinitely). There is no data to suggest that S corporations deplete such layers any faster than their C corporation counterparts (for example, in year 11 of the S election). Accordingly, the making of an S election should not be grounds for a tax on base LIFO layers. The Act would repeal this unwarranted government windfall and properly put S corporations on par with C corporations, which rarely pay tax on the old LIFO layers.

SECTION 603. EXPANSION OF POST-TERMINATION TRANSITION PERIOD

The Act expands the post-termination transition period (PTTP) to include the filing of an amended return for an S year. The granting of the 120-day PTTP should be based on the recognition that legitimate changes to an original return can be made in several ways including through audit or through the filing of a taxpayer-initiated amended return.

SECTION 604. REDUCTION IN TAX RATE ON EXCESS NET PASSIVE INCOME

The Act would bring the punitive nature of the tax on excess passive income closer in form and substance to the personal holding company (PHC) rules by reducing the tax rate on passive investment income to 15 percent as was recently done for PHCs by Section 302(e) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SECTION 605. INCREASE IN CAP ON QUALIFIED SMALL ISSUE BONDS

The act would change the maximum size of a bond issuance that would qualify as a ''small issue'' for S corporation banks to $10 million, and $30 million. It also indexes this number for inflation.

SECTION 606. REDUCED RECOGNITION PERIOD FOR BUILT-IN GAINS

The effective recognition period for built-in gains of S corporations is reduced from ten years to seven years.

SECTION 607. SPECIAL RULES OF APPLICATION

If a refund or tax credit resulting from the application of this act is prevented in the first year of its enactment, it may still be taken as long as it is claimed within the year.

By Mr. DODD:

S. 3839. A bill to amend title II of the Social Security Act to provide that the eligibility requirement for disability insurance benefits under which an individual must have 20 quarters of Social Security coverage in the 40 quarters preceding a disability shall not be applicable in the case of a disabled individual suffering from a covered terminal disease; to the Committee on Finance.

Mr. DODD. Mr. President, I ask unanimous consent that the text of the bill, the Claire Collier Social Security Disability Insurance Fairness Act, be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Claire Collier Social Security Disability Insurance Fairness Act''.

SEC. 2. EXCEPTION FROM 20/40 REQUIREMENT FOR DISABILITY INSURANCE BENEFITS FOR INDIVIDUALS SUFFERING FROM A COVERED TERMINAL DISEASE.

(a) EXCEPTION FROM RECENT WORK REQUIREMENT.—

(1) IN GENERAL.—Section 223(c)(1) of the Social Security Act (42 U.S.C. 423(c)(1)) is amended in the flush matter following subparagraph (B)(iii) by inserting ''or suffering from a covered terminal disease'' after ''216(i)(1))''.

(2) CONFORMING AMENDMENT.—Section 216(i)(3) of such Act (42 U.S.C. 416(i)(3)) is amended in the flush matter following subparagraph (B)(iii) by inserting ''or suffering from a covered terminal disease'' after ''paragraph (1))''.

(b) DEFINITION OF COVERED TERMINAL DISEASE.—Not later than 60 days after the date of enactment of this Act, the Commissioner of Social Security shall issue a proposed rule defining the term ''covered terminal disease'' for purposes of sections 216(i)(3) and 223(c)(1) of the Social Security Act (as amended by subsection (a)) that shall include (but not be limited to) those diseases that are incurable, progressive, and terminal, including neurodegenerative and neurological diseases that are likely to cause death within a 5-year period of onset.

(c) INTERIM FINAL AND FINAL RULES.—

(1) INTERIM FINAL RULE.—Not later than 90 days after the date of enactment of this Act, the Commissioner of Social Security shall issue an interim final rule defining the term ''covered terminal disease'' in accordance with the requirements of subsection (b) and shall provide for a period of public comments on such rule.

(2) FINAL RULE.—Not later than 6 months after the date of enactment of this Act, the Commissioner of Social Security shall issue a final rule defining the term ''covered terminal disease'' in accordance with the requirements of subsection (b) and consideration of any public comments received during the period required under paragraph (1).

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to any applications for disability insurance benefits under title II of the Social Security Act that are pending or filed on or after that date.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 548—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NEED FOR THE UNITED STATES AND THE INTERNATIONAL COMMUNITY TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE HOSTILITIES BETWEEN HEZBOLLAH AND ISRAEL

Mr. DODD (for himself, Mr. LEVIN, Mr. SUNUNU, Ms. STABENOW, Mr. CHAFEE, Mr. KENNEDY, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 548

Whereas, on June 12, 2000, the Government of Lebanon advised the United Nations that it would consider deploying its armed forces throughout southern Lebanon following confirmation by the United Nations Secretary-General that the Government of Israel had fully withdrawn its armed forces from that country in accordance with United Nations Security Council Resolution 425 (1978);

Whereas, on June 16, 2000, the United Nations Security Council endorsed the Secretary-General's conclusion that Israel had withdrawn all of its forces from Lebanon in accordance with United Nations Security Council Resolution 425;

Whereas, notwithstanding the reservations of both Israel and Lebanon regarding the final line determining what constitutes an Israeli withdrawal in accordance with United Nations Security Council Resolution 425, the governments of both countries confirmed that establishing the identifying line was the sole responsibility of the United Nations, and that they would respect the line that the United Nations identified;

Whereas Hezbollah remains an armed terrorist presence in Lebanon and continues to receive material and political support from the Governments of Syria and Iran;

Whereas, as affirmed in Public Law 108–175, the Governments of Syria and Iran have significant influence over Hezbollah;

Whereas United Nations Security Council Resolution 1559 (2004) calls for the withdrawal of all foreign forces and the dismantlement of all independent militias in Lebanon;

Whereas the international community has provided insufficient encouragement and resources to the Government of Lebanon to enable the Government to comply with the relevant provisions of United Nations Security Council Resolution 1559;

Whereas Hezbollah launched an unprovoked attack against Israel on July 12, 2006, killing 7 Israeli soldiers and taking 2 soldiers hostage, its fifth provocative act against Israel since the summer of 2005;

Whereas the Government of Israel, as reaffirmed in S. Res. 534, has the right to defend itself and to take appropriate action to deter aggression by terrorist groups and their state sponsors;

Whereas fighting between Israel and Hezbollah to date has caused significant damage to Lebanon's and Israel's infrastructures that will necessitate the expenditure of significant sums to rebuild;

Whereas more than 400 citizens of Israel and Lebanon have already lost their lives in the ongoing conflict;

Whereas over 14,000 United States citizens have been evacuated from Lebanon at a cost of over $60,000,000;

Whereas more than 1,000,000 Israelis living in northern Israel are under threat of Hezbollah rockets;

Whereas more than 700,000 Lebanese civilians have been displaced by the fighting, and the United Nations Emergency Relief Coordinator is seeking more than $170,000,000 in donations from international donors to pay for food, medicine, water, and sanitation services over the next 3 months;

Whereas the United States Government has pledged $30,000,000 in short-term humanitarian assistance to address the humanitarian crisis in Lebanon;

Whereas the fragile democracy of Lebanon is in jeopardy of collapsing without significant international support to address the humanitarian crisis in the country and to strengthen the capacity of the army and security forces of the Government of Lebanon to gain effective control of all territory in Lebanon; and

Whereas continued fighting between Hezbollah and Israel is a threat to the peace and security of the peoples of Israel and Lebanon:

Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Governments of Syria and Iran should—

(A) end all material and logistical support for Hezbollah, including attempts to replenish Hezbollah's supply of weapons; and

(B) use their significant influence over Hexbollah to disarm the group and release all kidnapped prisoners;

(2) the United States Government and the international community must work urgently with the Governments of Israel and Lebanon—

(A) to attain a cessation in the hostilities between Hezbollah and Israel based on—

(i) effectuating the safe return of Israeli soldiers held in Lebanon;

(ii) the disarmament of Hezbollah, the removal of all Hezbollah forces from southern Lebanon, and the replacement of those forces with army and security forces of the Government of Lebanon; and

(iii) reaching an agreement to fully implement United Nations Security Council Resolution 1559 and to create and deploy an international stabilization force with a clear mandate to enforce a permanent ceasefire;

(B) to organize an international donors conference to solicit and ensure the provision of international resources for the reconstruction of roads, bridges, hospitals, electrical and communications systems, and other civilian infrastructure damaged or destroyed in Lebanon during the hostilities;

(C) to remain engaged to promote sustainable peace and security for Israel and Lebanon and the greater Middle East; and

(D) to assist the Government of Lebanon on its path to democracy by promoting necessary internal political reforms; and

(3) the territorial integrity, sovereignty, unity, and political independence of Lebanon should be strongly supported.

Mr. DODD. Mr. President, I send to the desk a resolution about the current outbreak of violence in Israel and Lebanon. I do so for myself, Senators LEVIN, SUNUNU, STABENOW, CHAFEE, and KENNEDY. I know that all of us here want to see a peaceful conclusion to the current situation—peace for Israelis and for Lebanese. The tragic deaths of 57 Lebanese civilians—37 of them children—in the village of Qana on Sunday highlight the urgency for doing so.

This resolution would express the sense of the Senate that the United